UNITED STATES
INTERNATIONAL TRADE COMMISSION

In the Matter of:	)	
	)	Investigation No.:
SILICON METAL FROM RUSSIA	)	731-TA-991 (Preliminary)

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Tuesday,
March 26, 2002

Room No. 101
U. S. International
Trade Commission
500 E Street, S.W.
Washington, D.C.

The preliminary conference commenced, pursuant to Notice, at 9:30 a.m., at the United States International Trade Commission, LYNN FEATHERSTONE, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

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BONNIE NOREEN, SUPERVISORY INVESTIGATOR
FRED FISCHER, INVESTIGATOR
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JACK GREENBLATT, COMMODITY-INDUSTRY ANALYST

APPEARANCES: (cont'd.)

In Support of the Imposition of Antidumping Duties:

On behalf of Globe Metallurgical, Inc.; SIMCALA, Inc.; International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (I.U.E-C.W.A., AFL-CIO, C.L.C., Local 693; Paper, Allied-Industrial Chemical and Energy Workers International Union (Local 5-89); and United Steelworkers of America (AFL-CIO, Local 9436):

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C. EDWARD BOARDWINE, President and CEO, SIMCALA, Inc.
KENNETH R. BUTTON, Economic Consulting Services, Inc.
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In Opposition to the Imposition of Antidumping Duties:

On behalf of SUAL Holding; ZAO Kremny; Pultwen, Ltd.; and Greenwich Metals, Inc.:

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DR. PATRICK J. MAGRATH, Managing Director, Georgetown Economic Services
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On behalf of General Electric Silicones, LLC:

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Dewey Ballantine, LLP
Washington, D.C.

I N D E X

P R O C E E D I N G S

(9:30 a.m.)

MR. FEATHERSTONE: Good morning. Welcome to the United States International Trade Commission's conference in connection with the preliminary phase of antidumping investigation No. 701-TA-991 concerning silicon metal from Russia.

My name is Lynn Featherstone. I'm the Commission's Director of Investigations, and I'll preside at this conference. Among those present from the Commission staff are Bonnie Noreen, the supervisory investigator; Fred Fischer, the investigator; Irene Chen, the attorney/advisor; Cathy DeFilippo, the supervisory economist, whose economist is next door; Chand Mehta, the auditor and financial analyst; and Jack Greenblatt, the industry analyst.

The purpose of this conference is to allow you to present to the Commission through the staff your views with respect to the subject matter of the investigation in order to assist the Commission in determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury or that the establishment of an industry in the United States is materially retarded by reason of imports of the merchandise which is the subject of the investigation.

Individuals speaking in support of and in

opposition to the petition have each been allocated one hour to present their views. Those in support of the petition will speak first.

The chair may ask questions of speakers either during or after your statements. However, no cross-examination by parties or questions to opposing speakers will be permitted. At the conclusion of the statements from both sides, each side will be given ten minutes to rebut any opposing statements, suggest issues on which the Commission should focus in analyzing data received during the course of the investigation and make concluding remarks.

This conference is being transcribed, and the transcript will be placed in the public record of the investigation. Accordingly, speakers are reminded not to refer in your remarks to business proprietary information and to speak directly into the microphones. Copies of the transcript may be ordered by filling out a form which is available from the stenographer.

You may submit documents or exhibits during the course of your presentations. However, we will not accept materials tendered as business proprietary. All information for which such treatment is requested must be submitted to the Secretary in accordance with Commission Rule 201.6.

Any documents that are letter size and copiable will be accepted as conference exhibits and incorporated

into the record of the investigation as an attachment to the transcript. Other documents that you would like incorporated into the record of the investigation must be submitted with your post-conference briefs.

Speakers will not be sworn in. However, you are reminded of the applicability of 18 USC 1001 to false or misleading statements and to the fact that the record of this proceeding may be subject to court review if there is an appeal. Finally, we ask that you state your names and affiliation for the record before beginning your presentations.

Are there any questions? If not, welcome Mr. Kramer. Please proceed.

MR. KRAMER: Good morning. I am Bill Kramer of Verner, Liipfert, Bernard, McPherson & Hand, counsel for Petitioners. To my left is Marlin Perkins of Globe Metallurgical, vice-president of Sales. To Marlin's left is Jessie Brooks of Verner Liipfert, and to her left is Peter Kimball of Economic Consulting Services. To my right is Ed Boardwine, president of SIMCALA, and to his right is Ken Button of Economic Consulting Services.

In this preliminary investigation, the evidence unequivocally demonstrates that there is a reasonable indication of material injury to the U.S. silicon metal industry by reason of imports from the Russian Federation.

The Commission already knows a great deal about silicon metal, the nature of the U.S. silicon metal market and the domestic industry through its previous antidumping investigations and its recent sunset reviews of the existing antidumping duty orders. Many elements of Petitioners' case have already been examined and established in the context of the prior investigations and sunset reviews.

Among other things, the Commission has found that all silicon metal constitutes a single like product and that the U.S. silicon metal market is price sensitive. In the sunset reviews, the Commission also found that the domestic industry was vulnerable to material injury by reason of dumped imports. Nevertheless, we intend to cover all of the key elements of our case today to complete the record and for the benefit of those members of the staff who were not involved in the previous proceedings.

This case is really very simple. Silicon metal is a commodity product. Purchasers select suppliers principally on the basis of price. Over the past three years, silicon metal imports from Russia have been entering the U.S. market in significant and increasing volumes and at aggressively low prices.

Particularly in the past year, the volume of these imports has surged, capturing a substantial and increasing share of the market at a time when both U.S. consumption and

the domestic industry sales volume and market share have declined. The imports have undercut the domestic industry in both the metallurgical and chemical producer segments of the U.S. market. In fact, the Russian imports have undercut the domestic industry's prices to such an extent that current pricing is at levels below U.S. producers' cost of production.

As is evident from the producers' questionnaires, the unfairly traded Russian imports have caused the U.S. industry to suffer deteriorating performance with respect to essentially every one of the Commission's traditional injury indicia. The industry's loss of sales volume and revenues has resulted in declines in capacity, production, shipments, market share, employment and financial performance.

One domestic producer was forced to permanently exit the silicon metal business during the period of the Commission's investigation. Other U.S. producers have suffered such severe financial deterioration that they have had to shut down furnaces, shift furnace operations to other products or cancel expansion plans. Overall, the data make it abundantly clear that the unfairly traded imports from Russia have had a severe negative impact on the domestic industry.

As the Globe and SIMCALA witnesses here today will testify, the U.S. industry is being severely hurt by these

low-priced, dumped imports. Without relief from these imports, there is no prospect of any price recovery or an end to the severe damage now being done to the domestic industry.

Our first witness is Marlin Perkins of Globe.

MR. PERKINS: Good morning. My name is Marlin Perkins. I'm the vice-president of Sales at Globe Metallurgical, Inc., a position I have held for the past 12 years. I supervise the selling and marketing of Globe's entire product line, including silicon metal. Globe is the second largest U.S. silicon metal producer with plants in four locations -- Selma, Alabama; Niagara Falls, New York; Springfield, Oregon; and Beverly, Ohio.

I am here today to testify about the characteristics and uses of silicon metal, the nature of the domestic silicon metal market and the negative impact of the dumped imports from Russia on the domestic silicon metal industry in general and on Globe specifically. Let me tell you; these effects have been catastrophic.

Silicon metal is a product composed almost entirely of elemental silicon with minor amounts of impurities such as iron, calcium and aluminum. Most silicon metal is purchased by two groups of customers, chemical manufacturers and primary and secondary aluminum producers. In the chemical sector, silicon metal is used to produce a

precursor to silicon chemicals. Aluminum producers use silicon metal in the production of aluminum alloys.

There is no meaningful difference between domestically produced and imported silicon metal. Competing suppliers produce essentially the same product using the same raw materials and the same production process. They sell it on the same basis and to the same customers.

Historically, the Russians produce a lower purity product suitable principally for the metallurgical industry customers. In recent years, however, the Russian producers have improved the quality of their product. Imported Russian silicon metal, like the domestic product, now meets customer specifications in all segments of the U.S. market, and Russians are aggressively targeting the entire market, including the chemical industry customers.

A large portion of the total U.S. silicon metal consumption is concentrated in the hands of a few major chemical and aluminum industry purchasers. Because of the many competing sources of silicon metal supply and the large size and small number of these major purchasers, our most important customers have a great deal of leverage in price negotiations.

These customers are in a position to and do use competing domestic and import prices in order to force the prices down to the lowest levels possible. Recently, a

number of these customers have been making intensified efforts to obtain low-priced import sources of supply or to use import prices to drive down domestic producer prices.

The bottom line is that for silicon metal consumers, the most important consideration in making purchasing decisions by far is price. In the marketplace you can talk to customers about sales and technical service, about quality and quality control and do a number of things attempting to differentiate your product from the competition, but what the customer always comes back to is price. How much per pound?

The extent to which the market is purely price based is illustrated by a recent change in silicon metal marketing; the advent of internet auctions. While we are not concerned about the auctions per se, indeed we realize that they may be the wave of the future. We are concerned with the effect of dumped imports on these auction processes.

In the past, when companies were requesting price quotations for contract sales there was some negotiating room. Prices were quoted either through verbal discussions or by means of seals bids. This provided some degree of confidentiality and comfort in knowing that your price quotes or bids would not be widely broadcast and used to drive prices down further. Special prices could be

negotiated when necessary to obtain some needed business or to reward a loyal customer.

All of this changed in recent on-line auctions held by two major silicon metal consumers. In one auction, the purchaser published a list of product specifications and contract demands ahead of time. Bidders had to agree to the purchaser's terms up front in order to be allowed to bid. Once the auctions were underway, every bidder was able to see the pricing fall on a minute by minute basis. As a producer, it was troubling, to say the least, to watch prices tumble rapidly. In auctions, I personally watched as prices fell instantaneously after each new bid was entered.

It became obvious very quickly that certain bidders, including the Russians, were intent on capturing the auction business regardless of the price. As a result of the aggressive pricing, imports from Russia are surging into the U.S. market at a time when the domestic industry is the most vulnerable. Although Russian imports have had a significant presence in the U.S. market throughout the Commission's period of investigation, they sharply escalated in 2001.

The volume of Russian imports has been accelerating when both prices and demand have been declining and when other suppliers are cutting back on production. Worse yet, our customers have told us that they have been

assured that before any antidumping orders can take effect, enough Russian material will be brought in to satisfy the requirements for the remainder of this calendar year. The Russian imports fight aggressively for market share wherever they appear, and every time Russian silicon metal wins a sale by cutting price the domestic industry is hurt because all prices are affected rapidly.

A substantial portion of silicon metal sales are made under long-term contracts covering a period of at least one year. However, these contracts do not protect domestic products from import competition. For example, in the case of Globe the price in long-term contracts is a negotiated term that reflects competition at the time when the contact is written. Then when prices fall, the large silicon metal customers simply pressure us to reduce the contract prices or risk losing future business.

The current market situation has left the domestic industry reeling. Today, silicon metal prices are severely depressed. Published prices have fallen from almost 87 cents a pound in 1997 to as low as 49 cents a pound today. In fact, prices are now approaching and possibly are already below the cash cost of producing silicon metal for most, if not all, U.S. producers.

All U.S. producers, including Globe, are being directly impacted by the low-priced Russian imports. I know

this from firsthand experience. In November, 2001, Globe quoted a price of 53 to 54 cents per pound to a major aluminum producer and a long-time customer. This customer, which had purchased 3,000 to 4,000 tons of silicon metal from Globe the previous year at a price of 56 cents per pound, was very enthusiastic about the level of customer contact, product quality and technical support provided by Globe. In fact, we anticipated that Globe's participation at this customer would increase.

Nevertheless, when the Russians came in with a bid of 48 cents per pound it blew us right out of the water. There was simply no possible way that Globe could compete at that price level, and we lost all of the business to the Russians.

As the Commission can see from the detailed data that we provided in our questionnaire, Globe is currently struggling to survive the impact of the surge in Russian imports. Globe already has been forced to implement several furnace reconfigurations, curtailments and plant closings since January 1, 1999. The mounting imports, falling demand and power shortages during the period have negatively impacted each of Globe's four plants.

Due to the power crisis, Globe's one furnace plant in Springfield, Oregon, was idled in December of 2000 and has remained closed. Precisely and more importantly, if

this plant resumes operations it will be dictated by the customers' market conditions.

In Selma, Alabama, power rate increases at a time of increasing imports and decreasing demand forced Globe to idle its plant during the months of July and August, 2001, in exchange for a rate reduction for the balance of the year. The major reason Globe was willing to accept this agreement was the oversupply of silicon metal in the domestic market. In fact, one furnace at the facility had been idled early during June of 2001 strictly to control finished product inventory levels.

Falling demand and rising imports also forced Globe to convert one of the two silicon metal furnaces at its Niagara Falls, New York, plant to the production of ferrosilicon in August, 2001. When market conditions did not improve by year end, both the ferrosilicon furnace and the remaining silicon metal furnace at Niagara had to be idled.

Finally, due to market conditions during calendar year 2000 both of the silicon metal furnaces at Globe's Beverly, Ohio, plant were converted to the production of ferrosilicon for use as a foundry alloy feedstock. This major restructuring also forced Globe to eliminate about 90 jobs permanently and lay off 67 other people at least temporarily.

In these circumstances, it is easy to see that if the domestic industry does not obtain relief from the dumped Russian imports, Globe's very existence is seriously threatened. Unless the domestic industry is afforded relief, unfairly low-priced imports from Russia will continue to flood the U.S. market at price levels that would drive U.S. prices down below their currently depressed levels.

The large amount of unused production capacity in Russia and the fact that its silicon metal industry is heavily export oriented demonstrates that increasing amounts of subject imports are likely to enter the U.S. market. As a result, the investments Globe and other U.S. silicon metal producers have made to improve and expand their production facilities and reduce production costs will be negated. Further investment in plant and equipment as currently planned will be halted or curtailed. More workers will be laid off, and research and develop efforts will be postponed or foregone entirely.

In fact, if the current situation is not alleviated Globe may well have to cease silicon metal production completely. Thank you.

MR. KRAMER: Our next witness is Mr. Boardwine.

MR. BOARDWINE: Good morning. My name is Ed Boardwine. I'm the president and chief executive officer of

SIMCALA, which is located in Mt. Meigs, Alabama.

I've worked in the silicon metal industry for more than 30 years. During that time, I've been involved in all aspects of the business from engineering to production to marketing to senior management. I've held my current position for the last seven years. My company has never appeared before the Commission. For that reason, I'd like to give you some background about SIMCALA.

In 1995, a venture capital group, including myself, formed SIMCALA to purchase the assets of SIMETCO, a domestic silicon metal producer that was in bankruptcy. After the acquisition, SIMCALA invested nearly three years and approximately $20 million in upgrading and modernizing the former facility in order to produce high quality silicon metal. Through these efforts, SIMCALA became an efficient producer, able to provide a reliable supply of product to the domestic customers at a competitive price. Indeed, we believe that in terms of smelting efficiency SIMCALA is among the most efficient producers globally.

In view of the healthy market conditions that existed in 1998 and our successful efforts to upgrade the company's facility, SIMCALA planned to expand further by building a fourth furnace. Unfortunately, these expansion plans remain on indefinite hold.

Over the past three years, conditions in the

United States silicon metal market have deteriorated significantly. The deterioration accelerated in 2001 as market prices were led downward by low-priced Russian silicon material.

In addition to feeling the impact of declining prices, we've been hit with significant losses of sales volume. Combined, these efforts have forced us to scale back our operations considerably. Instead of constructing a fourth furnace as we had planned, SIMCALA was forced last year to shutter one of its three existing furnaces. All of these developments have had a dramatic effect on the company's bottom line. In this capital intensive industry, SIMCALA has sustained significant financial losses.

I would like to emphasize that silicon is SIMCALA's only production product. We have no other product lines to cushion the blow when prices in the silicon metal market are driven down to below cost levels. Faced with increasing flow of dumped Russian imports into the U.S. market, our company is fighting now for its very survival.

Reviewing the detailed data that we provided in our questionnaire will allow you to understand more fully the problems confronting SIMCALA. During my presentation, I will only highlight some of the negative effects that SIMCALA has experienced as a result of unfairly traded Russian imports.

As Marlin Perkins has explained, silicon metal is a commodity product. There is little, if any, difference between domestically produced and imported Russian silicon metal. Customers can buy from numerous sources of supply -- domestic producers, foreign producers and traders. As a result, price is usually the determining factor in a customer's purchase decision.

There are various public sources of information on silicon metal market prices such as *Metals Week* and *Ryan's Notes*. These published prices are widely used as a reference price throughout the entire market. Prices that change are quickly communicated and affect all segments of the market. As Marlin discussed, because there are many competing sources of silicon metal supply and a very small number of major customers in the United States, our principal customers have a great deal of leverage in price negotiations.

In mid 1998 when our company was completing the first phase of expansion, the market prices reported in *Metals Week* had been steady at about 72 cents a pound of silicon metal. Over the period from 1999 through 2001, significant volumes of low-priced Russian silicon metal made their presence felt in the U.S. market, and prices deteriorated. In 2001, as demand fell off and the domestic industry was most vulnerable to injury, increasing volumes

of unfairly traded Russian material began to flow into all segments of the U.S. market.

From a price of about 72 cents a pound in 1998, silicon metals prices plummeted to about 50 cents a pound by the fourth quarter of 2001. This represents a decline of more than 30 percent. As industry publications have reported, the low-priced silicon from Russian imports have led the price down in the U.S. market. Currently, pricing is approaching and in most cases is below our cash cost of producing silicon metal.

As with other domestic silicon metal producers, we often enter into long-term contracts with our major customers. These contracts are renewable at the end of the term and often contain pricing mechanisms based on prices in *Ryan's Notes* and other trade publications. Those long-term contracts, therefore, do not insulate us from market price fluctuations. Volume is set in a range, and the price is actually adjusted typically quarterly or annually on the basis of a published price market trend.

Last year, when we submitted a new multi-year purchase contract to one of our largest, most longstanding and most reliable customers, the customer requested a starting price that was below our cash cost of production. The customer informed us that the *Ryan's Notes* price, which was depressed by dumped Russian silicon metal, justified the

request. Because we could not agree to a multi-year contract at a loss, we found it necessary to agree to enter into a short-term contract for a much lower volume at the below cost price just to maintain our valuable relationship with this customer.

Even where we have maintained sales volume we have suffered lost revenue. For example, for several years SIMCALA has been the sole supplier to one of our silicon metal customers. In October of last year, SIMCALA submitted a price quote to this customer that we believed was fair and competitive. The customer informed us that it had received a competing price quote from a supplier of Russian silicon metal that was approximately ten cents lower than our quote. In order to maintain our longstanding relationship with the customer, we submitted a new quote that was significantly lower than our original price.

Depressed prices and our loss of sales volume have had several serious repercussions for our company. SIMCALA has been able to forego its projected expansion. As I mentioned earlier, in light of the favorable market conditions that prevailed in 1998, the company planned to construct a fourth furnace during the period from 1999 to 2000. Once operational, this furnace would have increased SIMCALA's capacity by 33 percent. The furnace would have added 30 full-time jobs.

Instead of implementing these expansion plans, the company contracted in 2001. We were forced to close one of our three existing furnaces, actually reducing SIMCALA's capacity by 33 percent. We were also forced to reduce our work force by half. In 2001, we lost 50 hourly workers and ten salaried employees.

Under the weight of the depressed market prices and our lost sales and capacity, SIMCALA has experienced major financial losses. In 1999, the company suffered a net loss of $3.9 million, and in 2000 we suffered a net loss of $5.8 million. In 2001, SIMCALA had additional losses and also found it necessary to take a $62 million charge related to the impairment of long-lived assets. The charge included a write down of goodwill and a write down of property, plant and equipment. Revaluing the assets of the company in this way was necessary because deteriorating market conditions, fueled by Russian silicon metal imports, made the company's financial situation so precarious.

The company has also not been able to meet its debt service requirements. On October 15, 2001, SIMCALA was not able to make an interest payment due on $75 million in bondholder notes. Because the company's only available credit facility has been suspended, it was necessary for us to enter into negotiations with the holders of the notes in order to restructure our debt.

The deteriorating market conditions driven by unfair Russian imports have also had a significant effect on SIMCALA's credit rating. In 1998, Moody's assigned SIMCALA a B-2 issuer credit rating. In April of the following year, the service downgraded our credit rating to CAA-1. Last year, Moody's downgraded the company's credit rating again, this time to junk, and just last week we received word from Moody's that they would no longer even track SIMCALA's debt rating.

In summary, the situation we at SIMCALA face is dire. Led downward by unfairly priced Russian material, domestic market prices have plummeted. We've lost significant business from even our oldest customers, and our company has suffered devastating financial losses.

If the Commission does not afford us the relief that we seek, the rising flow of dumped Russian silicon metal into the U.S. market will destroy our viability and indeed the viability of the entire domestic industry.

Thank you.

MR. KRAMER: Our next witness is Dr. Ken Button.

MR. BUTTON: Good morning. I'm Kenneth Button, senior vice-president of Economic Consulting Services, Inc. I'm appearing today at this staff conference on behalf of the domestic industry to assess the economic evidence as to whether the U.S. silicon metal industry is injured or

threatened with injury by reason of imports from Russia.

I have provided for the staff's convenience a set of exhibits based on public information, which I will reference in my testimony. I ask that the exhibits be accepted for inclusion in the record.

I would begin by noting the conditions of competition that are distinctive to the silicon metal industry. First, silicon metal is a commodity product. While the product purchased by a customer may need to conform to that customer's particular specifications, the differences in specifications among buyers in the consuming chemical and metallurgical industries tend to be relatively minor and can be met by virtually all domestic and import suppliers.

Second, it's important to appreciate that virtually all silicon metal from essentially all suppliers is very pure, usually around 99 percent silicon, with the remainder being very minor amounts of impurities. Although silicon metal has been described in terms of different grades, for example chemical grade or metallurgical grade, there is in fact no accepted grade classification system.

Grades actually refer to ranges of specifications that are typically sold to particular customer segments specifying minimum levels of silicon and maximum amounts of these impurities. Domestic and imported silicon metal of

the same so-called grade are completely interchangeable regardless of producer source.

Producers make the highest purity silicon metal that they can. No one intentionally produces a lower purity product that can only meet the customer specifications in, for example, the secondary aluminum sector. Therefore, silicon metal suitable for the chemical sector, so-called higher grade material, is routinely sold down to primary and secondary aluminum producer customers.

Third, given its commodity product nature and the interchangeability of Russian and domestic silicon metal, competition among silicon metal producers is fundamentally based on price, and relatively small differences in price can lead consumers to switch some or all of their purchase volumes to other suppliers.

Information about prevailing prices is available on a weekly basis in industry publications such as *Platt's Metals Week* and *Ryan's Notes*. Furthermore, purchasers tend to be willing to reveal to competing suppliers the prices at which silicon metal is being offered by other suppliers. The combined effect of these market practices is to insure that price changes are quickly communicated throughout the market. In fact, a variety of price adjustment mechanisms are used in long-term contracts which contribute to keeping supplier prices relatively aligned.

For example, frequently such contracts require that contract transaction prices be based on formulas tied to the reference prices in such sources as *Metals Week* and *Ryan's Notes*. The use of index pricing, meet or release clauses and other price adjustment mechanisms means that long-term contracts provide little shelter from import price competition and make the supplier vulnerable to the effects of an overall declining market price level.

Moreover, as these two price indices are based in significant measure directly on import prices for Russian silicon metal, the low prices of imports from Russia have a direct negative effect on U.S. producer revenues even with those customers not receiving bids directly from the Russian material suppliers.

Moreover, even with long-term, supposedly fixed price contracts in the chemical and primary aluminum sectors, the attractiveness of low-priced imports can be irresistible to customers themselves subject to intense competitive pressures. Some of these customers have simply given U.S. producers ultimatums. Either you must cut your price, or we are switching our volume to lower priced suppliers. Realistically, U.S. producers have little choice but to comply.

Recently there has been a significant new development in how silicon metal is purchased. As you have

heard from the industry witnesses, a major purchaser has begun using an internet auction procedure under which, one, all suppliers are pre-qualified, thus removing quality differences as a possible differentiating factor; two, bid prices are instantaneously communicated among all competing suppliers; and, three, price becomes literally the only determining factor in the customer's final purchase decision. This is an important new condition of competition in the market that makes it easier for low-priced imports rapidly to take market share away from domestic producers and to force down the domestic price level.

Fourth, Russian silicon metal competes in all customer segments of the U.S. market. In the first silicon metal investigation in 1991, Respondents from Argentina, Brazil and China claimed that their products were unsuitable for chemical customer use such that the U.S. producers' sales to chemical customers were sheltered from import competition. As the Commission concluded then and reaffirmed in the sunset review, that claim is false.

The clarity of the situation is even more evident today. No segment of the U.S. market is insulated from import competition. Imports from Russia are sold to chemical customers in large volume, direct, head-to-head competition with U.S. product just as these imports compete with U.S. product and sales to primary and secondary

aluminum customers.

Indeed, Russian producers have worked to improve their product quality over time and have intensified their focus on the chemical and primary aluminum customer segments of the market in the United States and elsewhere. As a result, the degree of competition between the domestic producers and imports from Russia is more direct than ever.

The interplay of these competitive forces means the prices in different segments of the U.S. silicon market are highly interrelated. For example, although the absolute levels of prices of materials sold to chemical customers are generally higher than the prices of sales to secondary aluminum customers and may change somewhat less rapidly because of the chemical sector's use of longer term contracts, the trends in chemical and secondary aluminum segment prices are in fact highly correlated over time.

One reason is that on the supply side U.S. producers and major import suppliers such as the Russian producers simultaneously sell into all three segments. Furthermore, on the demand side some metallurgical customers that operate both primary and secondary aluminum production facilities simultaneously buy silicon metal for their use in these two segments. Prices to customers in all segments are, therefore, subject to constant adjustment, balancing one against the other, and subject to the interplay of

industry wide supply and demand forces.

As demonstrated by the petition and the U.S. producers' questionnaire data, essentially all of the domestic industry's performance indicia demonstrate that it is suffering current material injury. These indicia are listed in our Exhibit No. 1, as shown on the screen and in the handout before you. As the detailed data are confidential, I can only note general trends in this public forum.

First, the domestic industry's production capacity fell greatly over the 1999-2001 period. The decline resulted from the closure of American Silicon Technologies in 1999 and the subsequent decline in the capacity of other U.S. producers.

Production has fallen substantially. As shown in Exhibit 2, SIMCALA has closed one of its three furnaces, and Globe has shut down or converted four of its furnaces, removing a very substantial volume of production from the market and leaving only Globe's furnaces at Selma, Alabama, still operating. Even with a drop in U.S. capacity, the domestic industry's production drop was so great that the industry's capacity utilization rate has fallen as well.

With American Silicon Technologies ceasing production and the decline in the domestic production of other producers, industry employment fell significantly

during the POI. As with production, U.S. shipments dropped. There was certainly some contraction in U.S. demand during the POI, particularly in 2001, but, as the U.S. industry shipment volume fell at a faster rate than did U.S. apparent consumption, the industry's market share declined substantially.

Reflecting the market deterioration, domestic producers' prices have declined significantly during the POI. Both the average unit values of shipments and the quarterly transaction prices of the U.S. producers fell considerably. The price declines were clearly evident in all three customer segments of the market.

The financial performance of the domestic industry declined under the combined weight of reduced sales volume and lower prices. The industry's operating income fell sharply during the POI, as did its cash flow.

As Mr. Boardwine has described, SIMCALA is suffering very large losses, has been forced to write down the value of its assets and cannot service its debt. Mr. Perkins has described Globe's financial deterioration as well. In the face of such financial pressures, the industry has been forced to reduce capital expenditures and to scale back planned new investment projects.

The data are clear that the rising volume of dumped imports of silicon metal from Russia is the cause of

the domestic industry's injury. The volume of imports from Russia is clearly significant and rising, as shown in our Exhibit No. 3. From about 25,700 short tons in 1999, imports from Russia increased by 42 percent to 36,500 short tons in 2001 and now account for 28 percent of total imports in a rising and substantial U.S. market share. The increase in imports from Russia during 2001 was extraordinary, as shown in the exhibits. The volume in the fourth quarter of 2001 alone reached 13,700 short tons.

The prices of the imports from Russia have remained very low during the POI and have exerted a serious depressing and suppressing effect on the U.S. industry prices. Not only have the Russian import prices been very low; there has also been a shift in the composition of the Russian material from the low content HTS category toward the higher silicon content HTS category. However, it appears that the Russia producers are selling at least some of their higher purity material at the same very low prices as the lower purity material.

Overall, even considering the fact that the Russian import average unit values do not include inland freight and importer marketing, it is evident that the Russian transaction prices are consistently underselling U.S. producers. The expanding volume of the low-priced Russian material has been entering during a period of weak

aggregate U.S. demand, which has made the U.S. industry especially vulnerable to the injurious impact of these imports. While weakened U.S. demand during 2001 has had a negative price effect, the presence of the increasing volume of the very low-priced Russian material forced U.S. producers to cut prices substantially more than they otherwise would have.

In Exhibit 4, we see that the Russian volumes and prices are strongly, but negatively, correlated. In other words, as you can see from the right-hand side of the exhibit, the rising Russian import volume is associated with declining Russian import prices.

Furthermore, as shown in our Exhibit 5, it appears that especially during the Russian volume surge in 2001 imports from Russia have led the *Metals Week* price downward. The result for the domestic industry has been lost sales and revenue.

The petition details several instances of the head-to-head competition between the U.S. producers and imports of Russian material which have resulted in lost sales volume for the U.S. industry and have consequently caused the industry to lose production, employment, market share and financial return. These lost sales have occurred in all three customer segments of the market.

Similarly, in the face of the Russian competition

U.S. producers have been forced to cut price in order to persuade customers not to switch all of their volume requirements to Russian material. The price reductions have been substantial.

Moreover, U.S. industry revenues have declined still further, even with those customers that do not receive direct bids from the suppliers of Russian material, because of the common use of price benchmarks such as *Metals Week* price, which have been depressed by the low Russian import prices, especially during 2001. The result overall today is a U.S. industry in crisis with some members literally fighting for survival.

The Russian producers have made clear that their competitive assault is going to intensity. As shown in Exhibit 6, a *Metals Week* report on March 20, 2002, quotes a source close to a Russian producer as saying, "We are currently shipping as much silicon to the U.S. as we can because of the threat of U.S. trade tariffs."

This is fairly stark evidence of a threat of imminent further injury to the domestic industry. The Russian producers clearly have the capacity to expand their exports to the United States and intentionally are going to stockpile an inventory in the United States which can only further depress U.S. prices.

The Russian plants have significant current unused

capacity, and all three of the producers reportedly have additional capacity planned. Moreover, as the Russian producers are already heavily export oriented, they can switch exports rapidly from current third country destinations towards the United States.

Also, there are a number of other Russian ferro alloy producers which could easily switch furnaces from the production of ferrosilicon toward production of additional silicon metal. The fact that an expanded Russian volume of silicon metal can rapidly penetrate the U.S. market and further reduce U.S. prices has already been amply demonstrated by the Russian materials' rapid import and market share expansion in 2001 and the resulting price depression.

In conclusion, the evidence is clear that the rising volume of low-priced imports from Russia has severely injured the domestic industry and threatens to cause greater injury still.

Thank you.

MR. KRAMER: That concludes our presentation. We would be happy to respond to questions from the staff.

MR. FEATHERSTONE: Thank you, Mr. Kramer and to all the witnesses, for your presentations. We will accept the collection of six exhibits that Dr. Button had as Collective Conference Exhibit 1.

Mr. Fischer?

MR. FISCHER: Fred Fischer, Office of Investigations. Thank you for your testimony, all of you. I just have a few brief questions.

This first one is to Mr. Button. What is the typical price difference between metallurgical grade and chemical grade silicon metal?

MR. BUTTON: Because my knowledge is very much based on the questionnaire data, I'd be happy to provide that in a --

MR. FISCHER: Sure.

MR. BUTTON: -- confidential response if I might, please.

MR. FISCHER: Thank you.

Mr. Perkins and Mr. Button both identified on-line silicon metal auctions I guess by two producers. If it's possible in your post-conference brief to provide additional information on those auctions, including the firms, websites, contacts and an explanation of how the mechanism works, that would be useful.

MR. KRAMER: We would be happy to do that.

MR. FISCHER: Thank you.

Mr. Button had put up an exhibit, I believe it was Exhibit 2, identifying conversions of furnaces from ferrosilicon to silicon metal. If you could provide in the

post-conference brief just an analysis of what is involved in the conversion -- cost, time -- and just essentially put dates and costs if possible added to Exhibit 2?

MR. BUTTON: Very good. The cost in the sense meaning the cost to make the conversion to the new product?

MR. FISCHER: Correct.

MR. BUTTON: Is that what you had in mind?

MR. FISCHER: Correct. I mean, I guess for our analysis we need to consider how easy it is to switch from one product to another.

MR. BUTTON: Right. There may be different application costs, depending on which way you switch.

MR. FISCHER: Well, if you could identify that as well?

MR. BUTTON: I would be happy to comment on that as well.

MR. FISCHER: Are environmental compliance costs a significant cost of production?

MR. PERKINS: Yes, sir, they are. They are a factor.

MR. FISCHER: If possible, in the post-conference brief if you could just further elaborate on those costs?

MR. PERKINS: Yes, sir.

MR. FISCHER: Elkem, which is the largest U.S. producer, is not a petitioner, and they're not an active

participant before us today. I'm just wondering what the significance of that would be on the Commission's analysis, if any?

MR. KRAMER: We think that the Commission should base its analysis of Elkem's situation on the data provided, and we think that Elkem, like other producers, is subject to the same forces we've described. Elkem's union is a Petitioner.

MR. FISCHER: Thank you. I have no further questions at this time.

MR. FEATHERSTONE: Ms. Chen?

MS. CHEN: Thank you. Irene Chen from the Office of General Counsel.

I just have a general question here about conditions of competition. If Petitioners could please further elaborate in your post-conference briefs as to which conditions of competition you believe the Commission should consider?

My next question concerns the decline in U.S. shipments. In your petition you discuss the decline in your shipments from 1999 to 2000. However, you then talk about the surge in Russian imports into the U.S. market in 2001 causing U.S. shipments to fall even further.

Can you please address in your briefs or here today why U.S. shipments already were declining from 1999 to

2000?

MR. BUTTON: We would be happy to get into that in the briefs and provide you some details.

MS. CHEN: Okay. Thank you.

Are any of the silicon metal products produced by the domestic producers used in their own manufacturing operations to produce other products?

MR. KRAMER: No.

MS. CHEN: Turning to the commodity product issues, do you have to qualify or certify your silicon metal products prior to selling those products to your customers? If so, can you please describe the qualification or certification process?

MR. PERKINS: Yes, ma'am, there is a qualification process, and it differs by not only the industry segment, but by customers within the segment. It has been in the past a much more involved, difficult process on the chemical end and much lesser so on the secondary aluminum end.

I can tell you as the pricing differential has fallen that that process seems to be much more compressed today than it has in the past, and we could elaborate more in a post-hearing brief.

MR. BOARDWINE: Ed Boardwine. Although there is a qualification requirement for most major customers in the United States, all the domestics and most of the imports

have already qualified.

MS. CHEN: Okay. Thank you.

MR. BUTTON: I would just like to add slightly to that. As we discussed in the context of the auction, once the suppliers have become qualified and you're able, therefore, to remove quality and qualitative issues as a differentiating factor among the suppliers then it really is only price which determines who the purchaser is treating, you know, the ultimate and the commodity product.

MS. CHEN: So is that qualification process standardized across the board?

MR. BOARDWINE: No, ma'am, it's not standardized. It's specific usually to the industry and to the customer itself.

MS. CHEN: Do all domestic producers have the capability or capacity to manufacture silicon metal products that may be sold to primary and secondary aluminum producers, as well as chemical producers?

MR. PERKINS: Yes, ma'am. We try to produce the best product that we can produce every day, every hour, every tap, so that if we can produce a product that can be sold into the chemical industry we can always sell that product down to the primary industry or the secondary industry.

As we have seen over the last couple of years, the

Russian competition has the same philosophy. They are selling to all the different segments of the industry.

MS. CHEN: Can you please further elaborate on the business cycle of silicon metal or demand and supply, meaning, for example, that steel follows a business cycle?

MR. BUTTON: For silicon metal, its demand follows two separate industries, one the chemical industry and the other those that produce and use aluminum alloys. Both of them follow to a certain degree the overall macro economies of cyclical trends, but each have slightly distinctive trends.

In general, however, over this period it's my understanding that the demand in the chemical sector for silicon metal products has been rising, but rising at different rates during the period of time. More recently it has been a relatively flat rate of increase. On the other hand, with respect to the aluminum sector, that has been more classically cyclical as it reflected the overall macro ups and downs of the economy.

Is that responsive?

MS. CHEN: Yes.

Turning to prices, in the petition you discuss that prices of all silicon metal products are interrelated in all market segments, and all prices key off the secondary aluminum price. Do you mean that all prices ultimately

settle or converge at the secondary aluminum price?

MR. BUTTON: No, we do not. What we mean is that the secondary aluminum price is the most widely known, most transparent, most widely communicated price in the market. It is in essence the *Metals Weeks* price and is watched as a barometer, an indicator, by all members of the industry. Since among suppliers they sell into all segments, they keep that in mind, and the customers in all segments look at it.

As you've heard described by the industry witnesses today, even in the purchases by chemical industry buyers, they will use fluctuations in the *Metals Week* price as justification for change in the price demands placed on the U.S. producers.

MS. CHEN: Are there any other pricing differences among sales of silicon metal to chemical versus aluminum producers, any sort of --

MR. BUTTON: Well, I would just note that there tends to be longer term contracts that are made use of in the chemical sector, and then the shorter term arrangements are made, for example, in the secondary aluminum segment.

I would let members of the industry comment further.

MR. PERKINS: As Mr. Button pointed out, in the secondary industry typically those are three month or a quarterly running type agreement. Sometimes you see that on

a spot basis from truckload to truckload, but typically in the secondary industry it's a quarterly price.

The primary industry is usually an annual price, and the chemical industry is -- some of the manufacturers are much longer term than one year, but maybe one year is the standard issue.

MR. BUTTON: Ken Button. I would just add as a follow up there seems to be something of a convergence in industry practice, as you've heard in the testimony today.

The chemical sector contracts, although long term, will set just a range in terms of volume such that if a customer is dissatisfied with the pricing arrangement they can go to the lower end of that volume.

Secondly, we have also heard that even within long-term contacts there is the use of periodic price indexing, be it quarterly or longer term, such that there is hardly any insulation provided by that.

MR. KRAMER: I would just like to clarify one point, which is there are a lot of different contractual arrangements even within the chemical industry, and there are a variety of different mechanisms used to cause the price to reflect changes in market prices.

You know, some contracts are meet or release provisions. Some are price indexed. Some have this phenomenon of not having quantity or having a range of

quantity. There are a whole series of different kinds of arrangements.

In some cases the producer, the chemical producer, will simply come back during the term of a one year agreement and say market conditions require you to lower prices, so there's a lot of variety in the mechanisms, but they all have some means by which market prices can influence the price paid.

MS. CHEN: Thank you.

Are domestic producers able to satisfy silicon metal demand, or is some level of imports necessary?

MR. BOARDWINE: Some level of imports are needed.

MS. CHEN: Would you like to address that further in the brief as to how much?

MR. KRAMER: Sure. We'd be happy to do that.

MS. CHEN: Okay. Are inventories significant in this industry, and have domestic producers' inventories increased over the period of investigation?

Any one of you may respond. Are inventories significant, and have inventories been increasing over the period of investigation?

MR. BUTTON: Yes. We would be pleased to respond in a confidential submission dealing with inventory overall.

MS. CHEN: You discuss in your petition that industry production has decreased during the period of

investigation. In your petition, you mention that because of the closure of AST's silicon metal production operations U.S. capacity has decreased, which in turn has caused production to climb. However, you also state that production fell faster than capacity.

Are you saying that even without AST's closure the domestic industry was suffering? Even taking AST's closure out of the mix, was the industry suffering declines in output?

MR. BUTTON: Yes.

MS. CHEN: In your petition, you mentioned that SIMCALA shut down one of its furnaces in August, 2001, for routine maintenance work. You also attach as an exhibit an article from *The American Metal Market*, which quotes a company executive from SIMCALA that, "The move to shut this second furnace was not market related. Order books were full for the year, and production was at full capacity."

However, later on in your petition you state that in November, 2001, and also here in the conference that SIMCALA had to shut down the furnace due to poor economic conditions. Can you address the apparent inconsistency?

MR. BOARDWINE: Yes, ma'am. We took a furnace down for annual maintenance. It was at the same time we were renegotiating a new multi-year contract. As a result of those negotiations, we had to take a lower volume at

below operating cost for that short-term agreement, and we made a decision not to start the furnace back up.

MS. CHEN: Now, how is unused or idle capacity being utilized? Is it being used to produce ferrosilicon?

MR. PERKINS: In Globe's case, we have started a production of ferrosilicon items on the two large furnaces that were producing silicon metal at the Beverly, Ohio, location. At the other locations they are just idled. Nothing is happening there.

MS. CHEN: Okay. So they're just sitting idle?

MR. PERKINS: Yes, ma'am.

MS. CHEN: Okay. What are your future projections for domestic demand of silicon metal, and how do you intend to respond to that?

MR. PERKINS: I think it's very much based on market conditions, the aluminum industry, the chemical industry, and obviously what the import of silicon metal is going to be.

I think if we get relief obviously we will start the plants back up, start the furnaces back up. People that are on temporary furlough, we'll call them back, and we'll start production. The sooner the better.

MS. CHEN: How much of a negative impact has your lost sales and lost revenue had on your ability to raise capital? You may address this in your post-conference

brief.

MR. BOARDWINE: Well, ma'am, in our case it's been very significant. I mean, we've incurred lower prices, lower revenue and also lower sales volume. Our normal bank line has been suspended, and obviously we weren't able to meet our debt. Our credit has been downgraded. Our future expansion, if we're able to do it, will be extremely difficult without relief.

MS. CHEN: You talk about planned capital expenditures in your petition, which later you had to cancel. How would these investments have helped your companies if you were able to make them?

MR. BOARDWINE: Well, at SIMCALA it was significant. Obviously with a three furnace plant and being able to expand to a four furnace plant creates better dynamics, not only more jobs but lower cost because of capacity utilization of a lower plant, lower infrastructure, so it would have had a dramatic impact.

In fact, a major part of our bond offering was based on the expansion of our plant into a very healthy market in 1998.

MR. BUTTON: This is Ken Button. If I may just respond further?

Certainly given that domestic producers don't have a capacity equal to U.S. consumption, there is room for them

to provide more product to you as consumers. The key problem has been low prices caused by the imports, which have prevented the companies from having enough of a financial return to justify new money, let alone keeping the current capital employed.

If prices are higher then it makes sense for them to go ahead and the companies then are able to have a positive return on their investments. Then it makes good sense, for example, in SIMCALA's case to have a fourth furnace in operation and similarly at Globe and elsewhere to have new capacity expansion.

MS. CHEN: Thank you. I have no further questions.

MR. FEATHERSTONE: Ms. DeFilippo?

MS. DEFILIPPO: Good morning. Catherine DeFilippo from the Office of Economics.

Actually, most of the questions I had have been asked and answered. I did have a couple quick follow ups. I concur with Mr. Fischer that it would be very interesting to have some of that information on the internet auctions in your post-conference brief.

A couple of other things just to note. If you could give some information on when they began and if you have any idea of approximately what percent of the market that purchaser is. I think you had mentioned earlier that

there were one or two that were large, so to give some idea of how much of the market that they may account for would be also helpful.

Dr. Button, you had mentioned in looking at Exhibit 4 that there has been a shift from lower silicon content to higher silicon content with the Russian imports. Is that a recent occurrence, or do you have an idea of what time period you might be referring to when this occurred?

MR. BUTTON: We actually know about that in some detail, at least in terms of certain publicly available information. It's been occurring for a period of time.

I'd have to go back. I think we could best answer in the post-conference brief, but it's been going on for a period of time during this period, and then there was a significant increase in volume.

MS. DEFILIPPO: Has that allowed them to become more competitive in the chemical industry?

MR. BUTTON: Well, they have certainly been improving the quality of their product over time, and it is clear that their product is acceptable to the key chemical producers in the United States so that the next step was price.

What we've seen here is that the higher purity material is being sold at prices that would be more appropriate for the lower purity material.

MS. DEFILIPPO: Okay. In regard to I think it was answers to Ms. Chen's question, you mentioned that you would restart some of the furnaces. In your post-conference brief if you could indicate how long that would take for them to come up to operating at normal levels, that would be helpful.

With the published prices from *Metals Week*, do those represent prices for just domestic product, or are they a general market price that reflects both imports and domestic product in the market?

MR. KRAMER: The *Metals Week* price is an import price. It's a price to dealers for imported material.

MS. DEFILIPPO: The last question I had dealt with the discussions we've had on long-term contracts and how prices are not necessarily or how they can be renegotiated or changed during the period relative to perhaps meet or release clauses. I know the questionnaires tend to ask do these contracts have meet or release clauses, and that's a yes or no question.

What I'd be interested in is some additional information in your post-conference brief on if your companies actually have during the course of a set contract, and not necessarily at the end, but during the course of a contract, say a yearly contract, if you did in fact have to lower prices. To the extent you can quantify that at all in

terms of how frequently, how many times you had to do that and what volumes may have been involved in that, that would be helpful.

I think that was all I had. I thank you for your testimony this morning.

MR. FEATHERSTONE: Mr. Mehta?

MR. MEHTA: I have no questions.

MR. FEATHERSTONE: Mr. Greenblatt?

MR. GREENBLATT: Yes. I have a number of questions.

Is there any impact from differences in production process on the quality of the product? I'm talking not only here, but in terms of what you know internationally and, of course, in Russia.

MR. KRAMER: We're not aware of any significant differences.

MR. GREENBLATT: So then any differences whatsoever?

MR. KRAMER: Some producers are more efficient than others, but they're all employing essentially the same process and the same materials.

MR. GREENBLATT: Can you describe why one producer might be more efficient than another producer in terms of their production process?

MR. BOARDWINE: As SIMCALA stated in our

presentation, one of the largest areas to focus on in efficiency of the set process that almost everyone uses in this industry is the efficient use of electricity, which can be up sometimes more than 30 percent of your actual operating cost.

The effective smelting efficiency of converting a kilowatt hour to a net ton of silicon is extremely important, and the domestic producers, and particularly SIMCALA, are among the best.

MR. GREENBLATT: Okay. Is there anything else? I think electricity is a very critical issue both in terms of the efficiency of using it and in terms of the ability to acquire electricity at a low cost. If there's anything that you would like to add at some point in the post-conference brief on that topic, I would appreciate it.

What are the differences in the production steps to make the various grades, the two metallurgical grades and the chemical grade?

MR. PERKINS: Most of that is a post furnace process, refining and that type thing. If you're making extremely low iron grades, you would attempt to get some lower iron feedstocks, but most of that is a post furnace refining process.

MR. GREENBLATT: Okay. I would appreciate if you could elaborate on that in the post-conference.

MR. PERKINS: Most of that post furnace is a very minor --

MR. GREENBLATT: Right, but still, you know, there obviously is some difference between the chemical and so on, so what are the differences, and maybe if there are any cost differences, even if they are fairly small, if you could elaborate on that?

MR. PERKINS: Yes, sir.

MR. GREENBLATT: Approximately the range in cost difference between let's say the chemical grade and the two metallurgical grades.

MR. PERKINS: Yes, sir.

MR. GREENBLATT: Are there any markets in which the Russian material is not suitable, any markets at all?

MR. PERKINS: I've seen them in all segments of the market, so I would say they can sell product into any segment of the market.

MR. GREENBLATT: And there are no exceptions?

MR. PERKINS: I haven't found any.

MR. GREENBLATT: Any import restrictions outside the United States for any of the Russian material?

MR. KRAMER: Not that we're aware of.

MR. GREENBLATT: Again, if you can just check and see if there might be something?

MR. KRAMER: Yes.

MR. GREENBLATT: Anything that you can add, and I know this was touched on, but I would be interested a little bit more on the demand trends for the three grades. You know, I'd like something a little more.

What is the impact of transportation cost? Does that have any kind of an impact in terms of, you know, the markets where the Russians can or cannot and vice-versa with the U.S. and various markets? Has that any kind of a market impact?

MR. PERKINS: Yes, sir. I know we addressed that in our questionnaires what that percentage is.

MR. GREENBLATT: Okay. Sure.

MR. PERKINS: I think typically in the 1997-1998 time frame we were able to quote a price FOB shipping point, but with the increasing imports they are quoting a delivered price, and we are faced with picking up that freight.

I know especially in the case of the Russians that they now have stock points across the United States, so that becomes less and less a factor in their sales.

MR. GREENBLATT: Can you document, again if you've answered it, situations or facilities not only in the United States, but internationally, where furnaces have switched from ferrosilicon to silicon and vice-versa?

MR. KRAMER: Could you clarify that question, please?

MR. GREENBLATT: Sure. Just document instances where you are aware of where there were furnaces that switched, that converted from primarily producing silicon to primarily producing ferrosilicon and vice-versa, situations that you're aware of.

MR. KRAMER: Okay.

MR. GREENBLATT: Can you compare, and I know this was touched on. Can you compare the silicon prices in the U.S. and let's say other major developed markets, and I'm thinking specifically in the EU, and account for any differences in prices and what are the factors?

Okay. My last question is this. Can you indicate where the Russians made improvements in their production quality specifically so that they could increase their -- any situation where you know specifically what kind of improvements may have been made and so on?

Okay. I have no further questions.

MR. FEATHERSTONE: Ms. Noreen?

MS. NOREEN: I think I have just one question or maybe a couple.

You said the Russians are stocked throughout the United States, have inventories throughout the United States?

MR. PERKINS: Yes, ma'am.

MS. NOREEN: Do you inventory throughout the

United States, too, or do you maintain inventories only at your production facility?

MR. PERKINS: We had four production locations across the United States, one on the west coast, one in Niagara Falls, one in the midwest in Ohio and one in the south in Selma, so, you know, just stocking at the plant was enough to meet all of our customer demands on a timely basis.

MS. NOREEN: And is that still the way you operate?

MR. PERKINS: Yes, ma'am. Yes, ma'am.

MS. NOREEN: What about you, Mr. Boardwine?

MR. BOARDWINE: We have inventory for our customers only at our production facility.

MS. NOREEN: The public information, *Ryan's Notes*, *Metals Week*. This is I think you said the secondary aluminum price. Is that correct?

MR. PERKINS: Typically. Yes, ma'am.

MS. NOREEN: And the primary aluminum and the chemical grade? Would those prices be higher selling to those markets, or is it really all just one price?

MR. BUTTON: The specific details on that, you know, we would be happy to provide and give you some quantitative information in the post-conference brief.

MS. NOREEN: Okay. There's no just general

information that you could give me now, I mean?

MR. BUTTON: Well, the generalized concept is that normally the price to the chemical sector tends to be higher than the price to the secondary aluminum sector. You know, we spoke before about price trends, but the magnitude of such differences and so forth we don't want to get into in an open forum, please.

MS. NOREEN: Sure. Sure. See, I just thought that public prices would be what you would start with, and then you would try to negotiate lower. If I was a buyer and I saw the public prices out there, then I would try to negotiate lower than that public price.

What you're saying to me is that the public price is really the lower price and that then you would negotiate higher in certain markets? I don't mean you particularly. I mean anybody. I mean the Russians. I mean anybody. Is that correct?

MR. PERKINS: Well, typically the price that's out there everybody is trying to negotiate it down obviously. We haven't had very many opportunities where we could negotiate the price up in the last two to three years.

Typically the chemical, if it's on an annual contract, I mean, those prices are not as widely reported obviously. There are only two of those major producers, so they're not as widely reported in those magazines, the

publications that you see. Typically the prices that are out there are secondary aluminum.

MS. NOREEN: Okay. Thank you, gentlemen.

MR. FISCHER: Fred Fischer, Office of Investigations. I just have two very brief questions.

Are you aware of any low silicon imports from Russia, meaning I guess silicon less than 96 percent?

MR. KRAMER: We're not aware of any such material. The only below 96 percent material we've ever encountered is circumvention material manufactured intentionally for that purpose by adding aluminum, which is not an impurity.

We've encountered that in the Chinese material in particular, but not to date in the Russian material.

MR. FISCHER: I just happened to notice it's in the scope, and I think I understand why it is. I just had to ask the question.

Finally, are you aware of any Chinese or Brazilian silicon metal imports that have been classified as Russian material, Russian imports?

MR. KRAMER: We read the press report suggesting some such flow of material exists. We have no evidence that it exists, and we haven't -- you know, we do track those things. If there is any such flow, we don't think it's significant.

MR. FISCHER: Okay. Thank you very much.

MR. FEATHERSTONE: Thank you all again for your testimony. Sorry about the microphone problem.

We'll take a ten minute break, at which point if Respondents could come forward, please?

(Whereupon, a short recess was taken.)

MR. FEATHERSTONE: Can we resume the conference, please?

Welcome, Mr. Waite. Please proceed at your convenience.

MR. WAITE: Thank you, Mr. Featherstone, and thanks to the members of the staff. My name is Fred Waite of the firm of Holland & Knight. With me is Kimberly Young. We represent SUAL Holding and its affiliated producers of silicon metal in Russia, ZAO Kremny and SUAL Kremny Euro, Ltd.

We are joined today by Dr. Patrick Magrath and Brad Hudgens of Georgetown Economic Services and Mr. Peter Appleby, who is president of Greenwich Metals, Inc., an importer of silicon metal from Russia.

Our panel also includes Michael Stein and Brent Bartlett of Dewey Ballantine and Ms. Marcia Haynes of GE Silicones. Finally, we have Thomas Wilner and Quentin Baird of Shearman & Sterling who represent the other Russian producer of silicon metal, Bratsk Aluminum Smelter.

Dr. Magrath will begin our testimony this morning.

MR. MAGRATH: Good morning, Mr. Featherstone, members of the Commission staff. Ladies and gentlemen, my name is Pat Magrath. I am managing director of Georgetown Economic Services. With me today is Brad Hudgens of GES, as Mr. Waite has said.

As is typical in a preliminary investigation, we Respondents are made to play catch up. In our case, we were granted APO to the petition only yesterday. Therefore, we are going to use our time today to talk about some points we have gathered from public sources that we would like the Commission to consider. We would hope to expand our arguments once APO material is available in the post-conference brief.

Let's start with the bottom line first. Silicon metal is a world commodity, a basic mineral that is easily mined and derived from an abundant raw material, silicate, around the world. As the U.S. Geological Survey has put it, "World and domestic resources for making silicon metal and alloys are abundant and in most producing countries adequate to supply world requirements for many decades."

It is a basic mineral building block for many major industrial products from aluminum to chemicals to silicon electrical steel. Many countries produce it. Many export it, and many export it to the United States and will continue to do so irrespective of this present action.

It is a commodity, as Petitioners have emphasized, and the fact is that silicon metal from one source can readily substitute for silicon metal from another source. Its abundance and commodity nature makes it an endearing, or I should say an enduring trade problem to the higher cost U.S. producers. I don't think that was the correct word.

We would like to emphasize to the staff and the Commission from the outset the very real and substantial presence of non-subject imports in this investigation. As the staff and Commission know, the U.S. silicon metal industry is no stranger to the ITC. The most recent proceeding involving this product and industry was just a little over a year ago in a sunset review against Argentina, Brazil and China.

Although the trade press articles provided in the petition gave testimony to the beneficial impact of these orders, these effects were before the POI or very early in it. Currently, the major Brazilian producers are carrying zero percent cash deposit rates and appear headed for revocation of their orders.

Argentina's order, as you know, was terminated in sunset review. Guess what? Imports from Argentina, zero in 1999 and 2000, reappeared in 2001 in significant quantities at very low prices; in fact, lower prices than Russia's.

The Chinese, despite higher duties, continue to

ship at very low prices, again lower than Russia's. In fact, the Chinese are currently making offers to large end use customers of significant quantities available for export to the U.S. market. Later witnesses, Ms. Haynes, will provide details.

These three subject countries should be added to the long list of other foreign suppliers of silicon metal to the United States, most notably in terms of volume South Africa and Canada, and new entrants on the rise and again with very low prices, Spain, Saudi Arabia and Argentina.

In fact, Petitioners' Exhibit 37 in their petition, an import table, shows seven major supplying countries, including South Africa, the largest import source over the POI, with average unit values lower than Russia on a contained metal basis. These countries lower than Russia, I should add, increased from three lower than Russia in 1999 to six lower than Russia in 2000, to seven lower than Russia in 2001.

A review of the import trends of silicon metal shows that imports from Russia were at ten year lows in 1999 and 2000, and the increase to 2001 levels was still below the average of the prior seven years. Furthermore, overall imports declined between 2000 and 2001. To the degree that imports from Russia increased during this period shows that these imports resumed their normal trading levels, and if

they displaced any source of silicon metal it was other imports rather than domestic production.

Nevertheless, given the information provided in the petition and the trade press articles we have hurriedly collected in the past few days, we are not going to deny that the current silicon metal producers in the United States have been through a difficult period recently, but so have many industries in the United States.

Thus, we respectfully urge the Commission and the Commission staff to put these alleged declines in the industry within the context of the recession that hit this country's manufacturing sector in 2000, continued through calendar year 2001 and is estimated to be abating only very recently.

Using public data, we can see that, and this is unfortunate for all of us here in this country, the deterioration of certain indices of the U.S. silicon metal industry were no worse than that of many other U.S. industries producing basic industrial commodities. According again to the U.S. Geological Survey statistics, production of silicon metal in the United States declined by seven percent between 1998 and 2000, the most recent data available.

However, under the weight of the decline in the general economy which hit disproportionately the nation's

manufacturing sector, production of ferrosilicon, a closely related product, fell by 25 percent. Ferro alloys as a whole, their production fell 20 percent, and copper, another basic industrial mineral dropped by 16 percent. Placed in this context, declines in silicon metal production of the magnitude reported were predictable, not unusual.

Importantly, it was acknowledged in the sunset review of this same product that the demand for silicon metal is derived from the demand for the two end products that absorb the great bulk of shipments, the chemical and aluminum industries. These two industries both suffered steep production declines from 1999 to 2001.

According to USGS again, production of aluminum fell by 30 percent, and chemical products dropped by ten percent. As these large consuming industries felt the squeeze of declining demand, they came under pressure to reduce their prices to move their products in this contracting market. In turn, they turned to their upstream supplier of input products not only, but including, the silicon metal producers, to lower their prices as well.

An obvious structural problem here is that the big consumers of silicon metal in the United States, which you have heard earlier this morning, the Dow Chemicals and the Alcoas of the world, have the benefit of being able to request bids from some 20 odd foreign suppliers, as well as

U.S. producers, for purchases of this basic abundant commodity. This natural buyers' advantage is magnified in periods of slack demand and recession. That's no surprise. Such is the current period.

It is also exacerbated by this world commodity the way it is sold via an auction type process and even by the new communications technology of which you have heard earlier. Ms. Haynes from GE will describe how GE buys silicon worldwide by internet auction. Mr. Appleby will also provide details of this auction process.

Our conclusion is one we hope the Commission will also reach. If Russian imports disappeared tomorrow, neither the overall volume or price of this world commodity would be affected in the U.S. market.

Corroborative evidence of this downward pressure on prices from once again these large consuming industries in particular and the slowing economy in general is plentiful in the trade press. As early as November, 1998, the *American Metal Market* quoted a spokesman from Dow Corning as stating publicly that the "Asian economic crisis, currency fluctuations and inflationary cycle," has caused Dow customers to demand price concessions from it on chemical products and that, "It is a more demanding world for silicon. There have been price concessions, severe stress on sales contribution margins and operating

profitability. Silicon suppliers are fighting it out."

A year later, in September, 1999, silicon metal prices were reported to be "riding a price slide" due to expanded operations by domestic producers. These quotes are from the 1998-1999 period when imports from Russia were declining severely from historic levels. This pressure from large buyers back to vendors is unfortunately again not unusual and not related to imports from the Russian Federation. It is how a recession spreads through an economy.

With these factors in mind, we are skeptical of a petition stating that, "The most obvious indicator of the industry's injured condition is the fact that two domestic producers have been forced to cease silicon metal production operations."

These closures were clearly not a result of competition with imports from Russia. One of these producers, American Alloys, stopped producing silicon metal in April, 1998, which is outside the Commission's period of investigation. Second, the other producer that ceased silicon metal production, American Silicon Technologies, began having financial difficulties well before the period of investigation, according to the petition.

When the company closed its silicon metal operations in September, 1999, imports from Russia were

declining significantly by 36 percent, while imports from South Africa, Brazil and Canada were increasingly displacing the Russian product. Russia was not even the primary source of imports during 1999, as imports from Canada and South Africa were higher during that period.

Consequently, to blame the closure of these two producers on imports from Russia is not credible. Imports from Russia steadily declined between 1998 and 2000 as buyers reacted to better prices from other imports and they displaced Russian volumes.

SIMCALA, which is one of the Petitioners here today, clearly indicated the reason why these producers went out of business. In the company's 10-Q financial statements, SIMCALA indicated that poor demand conditions and excess domestic supply, not imports, not even imports from Russia or imports in general, were the reason that U.S. prices remained depressed during that period. I will quote directly from its 10-Q statement.

"Historically, the company's silicon metal business has experienced price fluctuations principally due to the competitive nature of two of its markets, the primary and secondary aluminum markets. In addition, additional domestic production capacity (emphasis added) was added by two competitors at a time when demand was not growing at historical rates. This additional capacity created an

oversupply of silicon metal in the domestic markets. This excess supply continues to depress prices in all aluminum markets in which the company competes."

Consequently, imports from Russia were not the cause of these two producers' financial woes, but rather an oversupply of silicon metal from domestic sources causing poor market conditions. That's again not our opinion. We are quoting. That was one of the Petitioners. We urge the staff to investigate these facts and put them before the Commission in this preliminary investigation.

Finally, I would like to make an important point concerning the conditions of competition, and this is in contradiction to some of the testimony this morning. Russia is precluded from an important segment of the silicon market because no Russian producer is qualified to manufacture low iron silicon metal, that which contains less than 0.35 percent iron. Mr. Appleby will speak to this issue.

This low iron product is used in the automotive industry to produce alloy wheel rims and other products and accounts for a significant portion of the primary aluminum market. With imports from Russia not able to even compete in this significant share of the U.S. market, Petitioners' claims of material injury as a result of imports from Russia and Russia alone, since all of their imports are fairly traded, are further weakened.

In conclusion, we are aware of the relatively low threshold for an affirmative preliminary determination and that imports from Russia were the single largest foreign supplier to the United States market in 2001, but that's our point. Russia was the "single" largest import source, a single source among the following problems dragging down the domestic industry.

First and foremost, Russia was a single source of imports, one of numerous and very competitive import sources for this commodity type, globally plentiful, basic mineral. Imports in the POI from Russia are well off their historical levels, and over the POI period they averaged a little over 20 percent of import supply. That means that fairly traded imports were four times Russian volumes, and those imports are beyond this case's reach.

Imports in general, if a problem, were only one of a host of other problems plaguing the U.S. over and well before the current 1999 to 2001 period. These include ill-timed domestic capacity expansions just as the sector and general economy were turning down, high domestic energy costs, energy cost spikes and the collapse in mid 2000 and 2001 of the manufacturing sector in this country and as part of that collapse the decline in demand, the downward price pressure and the major consuming industries silicon metal and other basic minerals sell to.

If the Commission looks at these myriad of problems against a Russian industry that has gravitated towards long-term contracts and stable pricing here in the U.S. market, it hopefully will determine that the causation link here is too weak and is too overwhelmed by other causes to continue this case past this preliminary phase.

Thank you very much for your attention.

MR. WAITE: Thank you, Pat.

I will now turn our presentation over to Mr. Stein and Ms. Haynes.

MS. HAYNES: Mr. Featherstone and members of the Commission staff, good morning. I'm Marcia Haynes. I'm the general manager of Global Sourcing for GE Silicones. It's a business unit of the General Electric Company.

I am responsible for purchasing the silicon metal that is the principal input of the silicon products my company produces. My job is to purchase materials from qualified suppliers at the lowest possible price.

The chemical grade silicon metal we purchase is a commodity product. Once a company is qualified to supply us, price is the principal determinant, although we attempt to purchase from a variety of sources. Company policy prevents us from obtaining our supplies from a single source.

If we have to pay more for silicon metal than our

competitors do, we will lose business, particularly in the United States. As it is, our Asian and European affiliates and competitors who are able to purchase silicon metal for less than we can are putting tremendous pressure on me to purchase this material at the lowest possible price. In short, we are not in a position to pay more for silicon metal. We either purchase at a competitive price or decrease production at our U.S. facilities in favor of facilities abroad.

There are many suppliers both in the United States and abroad that are qualified to sell silicon metal to us. Should the Commission and the Department of Commerce make affirmative determinations and impose an antidumping duty order on Russia, we would not purchase from American companies at a higher price.

Rather, we would redirect our purchases to our other qualified suppliers from Canada, Brazil, South Africa and China, all of whom trade fairly in our market, or to any suppliers from the United States willing to meet or beat the prices charged by these fair value suppliers. I can assure the Commission that GE Silicones has its pick of eager suppliers, as the worldwide demand for silicon metal is unusually low and supplies are plentiful.

Given current market conditions, an antidumping duty order would have the following effects. It would

deprive GE Silicones of a valued supplier and push its business to other foreign suppliers. It would not help the U.S. industry at all.

GE Silicones has established an auction procedure -- you heard mention of it earlier this morning -- on the internet for the purchase of the bulk of our silicon metal needs. GE Silicones sets a maximum price and a reserve price, and once the auction opens qualified bidders may continue to put in new bids so long as they're lower than the last. We call this process, by the way, a reverse auction. After no new bids have been received for two minutes, the auction closes.

GE Silicones held three separate auctions in the fall of 2001 for our 2002 requirements. We hold separate auctions because we do not wish to be too dependent on one or two suppliers. We have provided you a bid-by-bid account of these auctions as an addendum to our questionnaire response.

The auction histories demonstrate the lack of causal connection between Russian imports and injury to the U.S. industry. The petitioning U.S. companies did not participate because they refused to meet even the beginning price. It can hardly be said that unfair imports from Russia injured them when fairly traded products were available at much lower prices and the fairly traded and

Russian imports ultimately were available to us at virtually the same price.

In fact, in one auction a non-petitioning American company won one lot, and a Russia company won another. They beat out a Canadian company by $1 per ton. In another auction, neither American nor Russian companies competed. Suppliers from Brazil, Canada and China competed. The resultant price was virtually identical to the final prices where Russian and American companies did compete. Plainly, Russian imports have no impact on the overall price levels of silicon metal in the American market because of the prevalence of fairly traded imports.

My lawyers tell me, Mr. Stein on my left, that the law is clear. A number of Court decisions stand for the proposition that if we can buy our requirements from Canada or Brazil, South Africa or China, at virtually the same price as from Russia, there is no causal link between Russian imports and the injury to the U.S. industry. We can, and, if necessary, we will. There is no sense in which our position is unique. This is a global business with suppliers and competitors around the world.

With regard to the purchases of silicon metal, there is nothing special about GE Silicones. Our competitors can purchase the same materials at comparable prices, and global competitiveness is a must for survival.

These are not good times for any of us. The dollar is unusually strong, hurting both potential domestic suppliers and us. Demand for product is down. One of our major competitors recently expanded offshore, further reducing demand for U.S. produced silicon metal. The California energy crisis reduced aluminum production and, therefore, demand for metallurgical silicon metal.

While my lawyers also tell me that the Commission is not supposed to weigh causes of injury, it also may not attribute injury caused by other factors to dumped imports. Russian imports take sales that otherwise have been made by fair value imports. They simply do not contribute to any harm being suffered by the domestic producer.

In summary, the record of this preliminary investigation contains irrefutable evidence that Russian imports are not injuring the domestic industry producing silicon metal because fair value imports stand in the way of increased sales and prices for domestic material.

There is no possibility that contrary information will be obtained in any final investigation. Therefore, the only correct result is a determination that there is no reasonable indication of material injury or threat of material injury.

MR. WINTON: Thank you, Marcia.

MR. WAITE: Our panel's next witness is Peter

Appleby, President of Greenwich Metals, Inc.

MR. APPLEBY: Good morning. My name is Peter Appleby and I'm President of Greenwich Metals, Inc., in Greenwich, Connecticut. That's what it says.

Greenwich Metals is an international trading company, established in 1992, specializing in non-ferrous metals, including silicon metals. We source all grades and sizes of silicon metal, to ensure that we provide material conforming to our customer's specific requirements. I, personally, have been involved in the marketing and sale of silicon metal in North America for more than 25 years.

Last year, Greenwich Metals negotiated an exclusive arrangement with SUAL, concerning their two related Russian silicon plants, ZAO Kremny in Siberia and SKU in the Urals. Since that time, Greenwich Metals has been acting as the exclusive North American agent for these plants, with respect to sales of their metallurgical grade silicon.

We market this metals to customers in both the primary and secondary aluminum markets in the United States and in Canada, and these companies then use the silicon as an input in their production. Our customers include large aluminum producers, such as Alcoa and Alcan, and also secondary aluminum producers, as well as smaller consumers that use silicon for their dye casting and extruding

operations. Greenwich Metals is not the marketing agent for the chemical grades, which the SUAL plants produce for the large U.S. chemical customers, like Dow and GE.

As a result of our long-term presence in the aluminum and aluminum alloys market, Greenwich Metals has been able to increase the number of customers committed to long-term contracts for Russian silicon. This benefits not only the Russian producers, who are assured an experience team of dedicated professionals with knowledge of the North American market; but, it also ensures that the supply from these producers is based on a long-term view of the market, rather than on potential short-term gains.

Silicon metals is a commodity product and the metallurgical grades from Russia are generally interchangeable with those from domestic producers, as well as from other sources, such as South Africa, Canada, China, and Brazil. However, as the petitioners noted, there is a segment of the U.S. market that requires a lower iron content in its metallurgical grades of silicon. This segment of the market is primarily occupied by primary aluminum producers that produce low iron foundry alloys for products such as alloy wheel rims for automobiles. Because the composition of the quartz site deposits in Russia, metallurgical grade silicon from Russia does not meet the iron content standards for this application. Therefore, the

low iron product that is available from the U.S. producers and other import sources is a product that the Russians -- that the Russian plants cannot supply.

This iron content requirement is a limitation for us in many sales. For example, last year, a large primary aluminum producer issued a tender offer for its silicon needs for the calendar year 2002. The total quantity of silicon metal available to be supplied under that tender was 14 million pounds. Approximately 75 percent of that quantity was for material with an iron content of 0.20 percent or less. As a result, we were unable to bid on a substantial portion of this business.

I'd also like to note, like the chemical silicon market, there are instances of Internet auctions for metallurgical grade silicon. For example, last year, we bid and won the contract with one of the automobile companies for its 2002 silicon requirements. Our experience in that auction was similar to the GE auction that Ms. Haynes described earlier. These auctions are a new feature in the silicon market; but, in my opinion, they have not changed the buying process, which still includes fax bids, telephone offers, and face-to-face negotiations.

Finally, there was one point that I wanted to make. There was a recent article in the trade press purportedly quoting someone representing the Russian plants,

suggesting that they are accelerating their shipments to the United States, as a result of this case. It was mentioned earlier and given credit to Metals Week. The editor of Metals Week is here today and she pointed out to me, it was not Metals Week, it was the American Metal Market.

As their -- as SUAL's North American representative, I just want to set the record straight, we have not, nor are we planning to increase our imports of silicon metal from Russia, in an attempt to flood the market. The plants are continuing to ship silicon metal according to an established schedule, in order to satisfy existing customer requirements. I don't know who the source was of that article; but whoever it was, they were not authorized to speak for the Russian plants and they certainly weren't speaking for Greenwich Metals. And we are SUAL's exclusive North American representative.

Thank you for the opportunity to allow me to appear here today. I'd be happy to answer any questions.

MR. WAITE: Thank you, Peter. Dr. Magrath has one comment and then Mr. Stein will make a concluding statement on behalf of our panel.

DR. MAGRATH: Yes. Thank you, again. Pat Magrath, Georgetown Economic Services. I just had a couple of quick comments on the exhibits that were -- that were put up by petitioners.

First of all, on their Exhibit 4, which is U.S. imports of silicon metal from Russia, volume and AUV, Dr. Button made much of the -- of the lack of correlation or the negative correlation in the last couple of quarters of 2001. But, if you take all of these quarters and draw the -- draw the vertical lines, actually, seven of 11 quarters, there is a positive -- there appears to be a positive correlation between the volume and the AUV. And I'm indebted to Mr. Wilner for that remark, which means if this turns out wrong, blame Wilner, don't blame me.

Exhibit 5 is -- appears to be even more misleading. These two things that are charted here are -- one is a Metals Week published price; the other is Russian AUV. It's not an index graph, so it's real prices and cents per pound. These are different levels of trade. This is a Metals Week price, which one of the witnesses of petitioners explained was an importers price to dealers. The other is the Russian AUV. I don't know whether it's FOB or CIF. But if it's FOB, of course, you've got ocean transportation. Even if it's -- and you've got inland transportation in the United States and you, of course, have the 5.5 percent tariff.

Added to that is the testimony that Ms. Noreen solicited, that really this published price in this very weak economic climate, the published price is being pushed

down. So, it's being pushed down towards the AUV. I wouldn't be surprised if this were brought to the same level of trade and we had an apples to apples comparison, if the Metals Week price actually -- or the Russian AUV price built up appropriately would even be higher than Metals Week price. It's very close here most of the period.

Thank you, very much.

MR. STEIN: Good morning. I'm Michael -- for the record, I'm Michael Stein, of counsel to Dewey Ballantine and counsel for General Electric Silicones in this proceeding.

I'm not usually on this side of the table. I've devoted my career, in fact, to defending and trying to preserve trade remedies, because I truly believe that they are the only way that an open market can protect itself from unfair practices from protectionist countries or countries that subsidize or engage in industrial targeting.

The job of those of us, who defend the trade laws, is made infinitely more difficult, if the laws are misused and if remedies are imposed in cases where there isn't unfair trade or where the remedy will harm some and not help others. That is exactly this case.

Fair value imports are an intervening cause of injury. I agreed with almost everything that the petitioner said this morning about the state of their industry, about

it being commodity product. The only source of disagreement is what's causing their current distress.

Fair value imports simply dwarf Russian imports, as you can see from the handout that we asked to be put in the record. To the extent that Russian imports increased from 2000 to 2001, that increase is dwarfed by the decrease in fair value imports from numerous sources. There is not a scintilla of evidence that Russian imports are in anyway displacing domestic production and we have a laboratory experiment to prove it.

As you've heard from Marcia Haynes and as you have as an addendum to General Electric's questionnaire response, there were three separate auctions that General Electric Silicones conducted a few months ago. In one of those auctions, neither Russia -- Russian producers, nor Americans participated. Yet, the price in that auction was almost identical to the price where Russians and Americans did compete. In a second auction, Americans did not compete; the Russians did. They shared the award with the Canadians. In the third auction, again, both -- neither petitioner was even willing to compete.

In those circumstances, it is absurd to say where fair value imports are available at prices substantially below where the domestic industry is even willing to quote, that imports from a different source are causing injury, and

as Ms. Haynes observed. I did advise her that the law is clear and I would like to refer to the Jerald Metals case from the Federal Circuit. "While the" -- and I'm quoting, "while the statute protects domestic magnesium producers from injury caused by LTFV imports, its scope of protection does not reach so far as to support artificially inflated prices, where fairly traded imports are underselling the domestic product and LTFV imports are readily convertible to fairly traded products by merely changing importers."

What we have here is a situation where domestic consumers of silicon metal are able to fulfill their needs from numerous sources, only one of which is alleged to be unfairly traded. And it is true, one thing I do have to mention is we're talking here, GE's experience is in the chemical area. But, I think we can take petitioners at their word, that there really isn't any difference between the availability of silicon in the -- silicon metal in the chemical and metallurgical areas. That is the -- to the extent that there is any differentiation in these markets, and we don't really think there is, the chemical grades are the higher grades.

So, the countries that make fair value chemical silicon metal available also are making metallurgical silicon metal available, again at prices so far below where the domestic industry is prepared to compete, that they

break any conceivable chain of causation from Russian silicon metal in these circumstances. And, in fact, if the Russian companies disappeared tomorrow, there would be no difference. There is -- the world is a wash in silicon metal.

It's not always this way; it's a cyclical industry. When I first started -- when these folks first called me up, it was because they couldn't get silicon metal. There was a shortage -- I mean, 1955, you know, in the -- and they were -- they were so desperate that they became importer of record from silicon metal from Brazil, while it was under order. So, conditions do change. But, at this time, this record is more than clear that imports from Russia are not causing injury.

Usually, you don't have this level of transparency. Imports from various sources are all competing and petitioners can sometimes make a plausible claim that the -- that one particular country is a price leader and they're dragging everybody down. Two problems with that: first is there is no plausible -- really plausible information on the record that Russia is a price leader; and the second problem is even if Russia were a price leader, the fact that there are all these -- even if Russia is down here, because there are all these intervening fair value imports between the Russians and the domestic

industry, those fair value imports just simply break the chain of causation.

This is not a case that deserves to go forward. Silicon metal is sold all over the world. There are numerous suppliers. They have to -- this is an industry. It's not subsidized. There are no sanctuary markets. There is no -- there is -- it's basically lowest cost producer wins. At the moment, for a number of reasons, electricity costs, the strength of the dollar, there are lower cost producers out there and they are not dumping. And in these circumstances, if the Commission fails to recognize these particular conditions of competition, it just simply brings these laws into disrepute. And I urge you to advise the Commission of the facts that are so evident on this record.

Thank you.

MR. WAITE: Thank you, Mike. Mr. Featherstone, that complete our panel's testimony. We're available for any questions from you and the staff.

MR. FEATHERSTONE: Thank you, Mr. Waite, all the witnesses for your testimony. We'll accept the chart, Mr. Stein, that you referenced, as Conference Exhibit 2.

Mr. Fischer?

MR. FISCHER: Thank you all for your testimony. I just have a few brief questions. Are you aware of any low silicon imports from Russia -- low silicon imports from

Russia within the scope, but less than 96 percent silicon content?

MR. WAITE: Below --

MR. FISCHER: I'm sorry, the circumvent -- in other words, any Russian imports entering the United States with less than 96 percent silicon content that would still be within the scope.

MR. APPLEBY: Let me answer that -- Peter Appleby. No. As far as we know, there are no imports of low content silicon metal.

MR. WILNER: Wait a second. I need to answer that. I thought this would be the first ITC hearing I ever got through without talking, but I think our -- yes, we are aware of some. Our company does have some. We'd like to do this -- this is not a circumvention issue. We do have some.

MR. FISCHER: If possible -- I don't believe the questionnaire response asked for a breakout, but if you could provide us, in your confidential response, a breakout of those imports over the time period we're asking for, that would be helpful. Thank you.

I have some questions regarding the Internet auctions for Ms. Haynes, but I think I'll defer to Ms. DeFilippo. Let me ask them now. Basically, if you could elaborate a little bit more on, I guess, the specifics of how the auction works and -- well, I guess the question to

you: are all of your purchasing requirements now done by your Internet auction?

MS. HAYNES: Not 100 percent. About -- this year, our target is 75 percent for our total buy on auctions. Obviously, auctions work where there's competition and you have multiple sources. So, in those instances where we don't, then we just go traditional negotiation.

MR. FISCHER: And typically, that is a one time a year event?

MS. HAYNES: It depends on the market. You know, when you do chemical commodities, there may be a reason to do quarterly auctions or auctions every six months. But silicon matter, we try to keep it as stable as possible, at least around a year.

MR. FISCHER: I'd have to review your questionnaire response, but if you could provide -- if it isn't provided already in your questionnaire, if you could provide a history of your auctions throughout this period.

MS. HAYNES: Okay.

MR. FISCHER: Timing, total quantities, that sort of information. That's all the questions I have for now. Thank you.

MR. FEATHERSTONE: Ms. Chen?

MS. CHEN: Good morning. Irene Chen from the Office of General Counsel. Do you agree with petitioners'

characterization or definition of the domestic like product? And, if not, why not?

MR. STEIN: For purposes of this preliminary investigation, we do not dispute it.

MS. CHEN: And a follow-up question regarding domestic industry, do you agree with petitioners' characterization of the domestic industry?

MR. WAITE: In what respect, Ms. Chen?

MS. CHEN: Basically, they characterized domestic industry as consisting of the domestic producers of silicon metal. Do you agree with that?

MR. WAITE: Yes. For purposes of the preliminary investigation, we do agree with that; yes.

MS. CHEN: Turning to the issue of related parties, if you could please discuss, in your post-conference briefs, whether you believe any of the domestic producers are related. This, I guess, relates to that question, as well. If so, whether appropriate circumstances exist to exclude any of those firms from the domestic industry.

MR. WAITE: We will address those questions in our post-conference brief.

MS. CHEN: I know it was discussed earlier today, some of the factors -- some of the conditions of competition. If you could please elaborate on that, what

conditions of competition you believe the Commission should consider in your post-conference briefs.

Can you please discuss the quality of Russian silicon metal and how it compares to U.S. silicon and whether or not quality becomes an issue in purchasing?

MR. WAITE: I think that Ms. Haynes and Mr. Appleby are probably the best situated to respond to that question.

MS. HAYNES: I mean, all of our -- all of our suppliers expected to meet the GE silicon specification and Russia does that today. So, there's no significant difference between, you know, the material that they sell us. I don't know if that --

MR. APPLEBY: There's three producers in Russia of silicon metal. Bratsk, as we understand, only produces a certain quality that can go into the secondary aluminum industry. The other two SUAL plants, ZAO Kremny produces the refined grade that can be used by the chemical industry, and, to a certain extent, by the primary aluminum industry. The third plant, SKU, does not have refining capability and, therefore, their product is not qualified by the chemical users and is principally used by the secondary aluminum industry and, to a certain extent, by the primary aluminum industry.

MR. WILNER: Let me also add, as Peter did in his

testimony, it's my understanding, I believe that's absolutely correct, but it's my understanding that none of those plants can produce the low iron content product required for a large portion of the U.S. primary aluminum market.

MR. APPLEBY: Correct.

MS. CHEN: How would you address the petitioners' claims that Russian silicon metal has increased in quality over the last year or so, causing this surge in Russian imports? Do you agree with that?

MS. HAYNES: I think it is not -- it's not only Russian silicon. Almost all of the producers from the emerging markets, the quality has improved. And so what tends to happen in this industry, is you identify a source and you work with that source to get it up to the level of quality that you want them to perform at. And that's where the Russian silicon -- certainly, chemical producer that we work with is performing today.

MS. CHEN: And when you say that you work with the suppliers, you mean that you identify these sources by price first and then work with them --

MS. HAYNES: No. Typically, you identify the source first. You know that they can produce silicon metal, chemical grade silicon metal. You test it. You give them input. You look at it more -- you know, we talk a lot about

prices. There's a lot that goes into looking at the environmental standards and all that before we even decide to work with them. So, we test. We give them input. They change and gradually the standard goes up.

MR. WILNER: Ms. Chen, can I respond to your question just a bit, too --

MS. CHEN: Yes, certainly.

MR. WILNER: -- because I think it puts it in some perspective. From a technical standpoint, it seems to me that some of the Russian -- one of the Russian plants can now meet this qualification, so it's in that market for the chemical grade. And in doing so, it's not that that's allowed it to surge. In doing so, it is competing with other imports doing that and has replaced other imports, as Mr. Stein has pointed out. Let me draw it down again. So, that's what happened. I mean, if it's in a surge, it's been a surge at the expense of other imports without the U.S. producers really competing in there. As Mike said, it's an intervening cause.

But let me make another point, which I think is important. My client, Bratsk, as Peter said, cannot make the high quality product. It cannot make it. It is in a market where everyone and anyone in the world, who produces silicon metal, can produce that product. So, it is in competition with the whole world of fairly traded imports.

And to the extent it's made sales, it's been at the expense of other fairly traded imports and not at the domestics, as well.

MR. STEIN: Can I just say --

MS. CHEN: Yes, certainly.

MR. STEIN: For purposes of your investigation, I think it is -- I mean, I would concur with the petitioners, that this is truly a commodity. You meet the specs. Once you meet the specs, then what matters is price. Our point is that there are -- there is a large universe of people, who are trading fairly, who meet the same specs.

MS. CHEN: Thank you. And if you could, in your post-conference briefs, could you please elaborate further on business cycle and demand and how that has resulted in oversupply in the last -- during the period of investigation?

Can you respond to petitioners' argument that antidumping duty orders on silicon metal imports from China and Brazil inflated U.S. silicon metal prices?

MR. STEIN: Yeah, I'd like to respond to that. They have not. I mean, the fact of the matter is -- again, if you look at GE's auctions, they are selling to Brazil. The Chinese are quoting -- I don't think -- do you have any Chinese right now? Yeah, but there are -- there were Chinese participants, who didn't get the business, who are

in this auction.

I think it's fair to say that the -- while there is still Chinese participation in the U.S. market, it has decreased since the time of the order and, possibly, as a result, prices for silicon metals in other parts of the world are lower than they are in the United States. But -- but whether that's a result of the U.S. antidumping order, I think, is yet to be proved.

MS. CHEN: Okay. I ask this of the petitioners. I'll ask this question again. Are domestic producers able to satisfy silicon metal demand in the U.S. market or are some level of imports necessary?

MS. HAYNES: Some level of imports are necessary.

MS. CHEN: Okay. Could you provide further --

MR. APPLEBY: I'm sorry, if I could also just add to that. From what we understand, the U.S. current production is less than 200,000 tons, but consumption in the U.S. is about 400,000 tons. So just ballpark, about 50 percent will be satisfied -- 50 percent of consumption will be satisfied to imports.

MS. CHEN: Thank you. Can you please address, in your post-conference briefs, why the volume of imports from Russia, as petitioners have alleged, declined slightly from 1999 to 2000? You can address that in your post-conference briefs or now.

MR. WAITE: We can address that, yes.

MS. CHEN: Okay. When are contracts for the purchase of silicon metal usually negotiated or renewed? Is there some -- is there a particular time of the year that these purchases go on?

MS. HAYNES: For GE silicon, it's the fourth quarter -- typically the fourth quarter.

MR. APPLEBY: In the metallurgical side, they sort of refer to the mating season for the long-term contract, an annual contract, as being also the fourth quarter. Typically, October, November is when negotiations take place for the following year.

MS. CHEN: And how long are long-term contracts normally in duration?

MS. HAYNES: For us, our long-term contracts are a year.

MS. CHEN: A year.

MS. HAYNES: It's typically no longer than that.

MR. APPLEBY: And the same would be true on the metallurgical side.

MS. CHEN: Okay. Can you please address, in your post-conference briefs, the petitioners' allegation that even though average unit values of Russian imports remain the same, this is an effective decline in Russian prices, because Russian producers have increased the quality of

their goods and have targeted sales to higher priced primary aluminum and chemical markets?

MR. WILNER: We will address that untrue allegation in our briefs.

MS. CHEN: And you please also address the apparent anomaly in prices of Russian imports during the last quarter of 2000 and first quarter of 2001, where the average unit value of Russian imports was higher than U.S. imports?

Do you agree with petitioners' contention that the Metals Week dealer import price is a benchmark for silicon metal prices and is considered indicative of U.S. trends?

MS. HAYNES: Chemical grade is typically not open pricing and so I just don't look at Metals Week; I just don't. I mean, we kind of set our own pricing based on what we think we need to do, to manufacture our cost. So, Metals Week is not a benchmark for us.

MS. CHEN: So, you just look for the lowest price?

MS. HAYNES: What we do is we look at what it should cost to make the product and we set our targets based on that.

MR. APPLEBY: Ms. Chen?

MS. CHEN: Uh-huh.

MR. APPLEBY: I would -- I'd like to respond. I think that the Metals Week prices reflect what we would

refer to as spot sales, sales that take place for more or less immediate delivery. However, the majority of SUAL's business is concluded in those -- what we've referred to as long-term contracts and Metals Week does not reflect those prices.

MS. CHEN: Thank you. Yes?

DR. MAGRATH: I would say, however, that the -- as Metals Week price going down is indicative of the -- one of the indicators of this jungle of competition out there, from all these sources, both foreign and domestic. That's what a spot market typically does, in the current environment. So, it accurately reflects the state of the market, in general, in those trends, even if much Russian material isn't subject to it.

MS. CHEN: Okay. Can you please address, in your post-conference briefs, all the statutory threat factors, including petitioners' claims in their petition, including annual production capacity for silicon metal; foreign producers plans to expand production capacity; whether or not inventories of the subject imports are significant; and whether or not there are any production facilities that are currently not producing silicon metal, but may be in the future?

Petitioners have also alleged that foreign producers can also produce fair silicon, but that this

production capacity could also be converted to silicon metal, if market conditions permit. Could you also please address this, as well? And also whether or not the Russian silicon metal market is export oriented.

Thank you. I have no further questions.

MR. FEATHERSTONE: Ms. DeFilippo?

MS. DEFILIPPO: Thank you, very much, for your testimony. Mr. Appleby, I wanted to follow up briefly on something that was just discussed with Ms. Chen, regarding the Metals Week pricing, in terms of it being spot. And you had noted that most of your business is done on contract basis. We heard some discussion this morning that while contracts are set for a year, maybe three months, maybe more, that there is some give in prices, with regard to meter release clauses that may allow prices to change within the -- within the length of a contract. Do you have any comment on that, in terms of do you have -- do you know if there are provisions in the contracts that you deal with, do prices actually change within the length or term of a contract and do the published prices play any role in those changes, if there are any?

MR. APPLEBY: I don't have any experience with the domestic contracts. I can tell you from our experience, we do not have any allowances for fluctuation of pricing. We actually refer to it as take or pay. This is the price.

This is the quantity. We can work with customers, if their requirements are lower, by extending the term of the contract. If their consumption requirements are better, we can speed up deliveries. But, we fix the quantity; we fix the price.

MS. DEFILIPPO: Thank you. And I think it might have been in either -- Dr. Magrath, you were talking about the Russian producer not being capable of producing low iron silicon metal and the lack of sort of competition there. If you have any estimates of what percentage of overall aluminum market sales that may account for, that will be helpful, if you could submit that in a brief.

Actually to jump back maybe to Ms. Haynes, do your contracts for your purchases contain meter release clauses and do the prices that you pay tend to change during the length of a contract or are they set for the period?

MS. HAYNES: No. Most of our contracts do have meter release clauses and it's pretty much a requirement of our legal team. But, they typically do not change that much during the year.

MS. DEFILIPPO: What would -- if the chemical market tends not to follow the published price, because it's not really relevant to yours, what factors would play into the price being changed during the term of a contract for -- and if any of this is confidential, I'd be happy to look at

it, in your post-conference submission.

MS. HAYNES: We should probably look at it there.

MS. DEFILIPPO: I guess one -- just one last question for anyone. I think Mr. -- Dr. Magrath, in your testimony, you talked about prices of non-subject imports selling at prices lower than Russian imports and I think we all touched on the non-subject. If this is a commodity product, why are there any differences in price at all? I mean, why are some lower than the others and why are some higher?

MS. HAYNES: The difference -- if you take a Chinese source, for example, the FOB prices should probably not be any different. The difference is going to be freight -- ocean freight. That should really -- that's our argument. It should really be the only difference in price, freight.

DR. MAGRATH: Cathy, you know, there are always rigidities in the market place. It's a -- it's a -- both petitioners and Mr. Stein alluded to, you know, there is -- there is near perfect information in this market, but it's never perfect information. At any particular auction or opportunity to sell, there might be certain, you know, disconnects, in terms of temporary availability.

And, finally, I'd like to say that, you know, reviewing for this, reviewing the sunset case, I was -- I

was struck, actually, by the number of -- you know, you guys always do this table that shows the factors important in a purchasing decision. Price was important, but it wasn't number one. Availability was important. Ms. Haynes alluded to, and this is not just GE, this would be every large purchaser, the prohibition against sourcing everything from a single source. So, you have alternate sources there.

And, finally, I think Canada is a very big factor here, in terms of the injury suffered by the U.S. producers. Because of the importance of availability and alternate source and alternate safe sources to people like Ms. Haynes and other large producers, people are looking and will pay a premium as an alternative for U.S. production. U.S. production is still more than 50 percent of the market after all. And that alternative is Canada, in this case.

MR. STEIN: Can I answer --

MS. DEFILIPPO: Sure.

MR. STEIN: -- take a shot at your question? If you will look at the information in the back of GE's questionnaire, which is the minute by minute for auction histories, and look at the final auction prices, you will find that within a few dollars a ton, you have a producer from the U.S., a producer from Russia, Brazilian producer, Canadian producer. The answer is, this is a commodity product and the price is what it is.

MS. DEFILIPPO: I thank you --

MR. STEIN: You're right. I mean, there is no -- there -- I don't know what the AUVs are showing, but what we can tell you is that the price that purchasers pay is pretty much the same, regardless of the supplier.

MS. DEFILIPPO: Actually, you reminded me of one quick question I had for Ms. Haynes. Does GE tend to have a desire to or practice dual sourcing or would you single source just based at the lowest price?

MS. HAYNES: Dual sourcing; multiple sourcing, if it's possible, actually.

MR. APPLEBY: If I could also add something.

MS. DEFILIPPO: Sure. Thank you.

MR. APPLEBY: I think GE's situation is somewhat unique. GE, like Dow and even some of the large aluminum consumers, is somewhat unique, in that especially for the chemical users, the price of silicon is so significant to the price of their finished product. I've heard it represent something of like 40 percent of the cost of their final product.

For many of the aluminum industries, silicon is a small addition and it's not as significant. Therefore, while Ms. Haynes may work very carefully to source at the best possible price, a small aluminum consumer may be buying from the same domestic producer for seven years and be

willing to pay 10 cents a pound more than the going market, because it's just not that significant and there are other attributes of buying from a domestic producer that is important to them. They like the idea of having -- first of all, there's a certainty of delivery. Imported metal, unless you are a large buyer like GE, you have to count on somebody else to deliver it, when you need it delivered. The quality to be as -- as you're asking, it's very difficult to check the quality of silicon metal. It looks like a big pile of rocks. So, there's a certain amount of confidence a buyer has when they buy domestic and they tend to pay for that.

MS. DEFILIPPO: Great. Thank you, very much, for your responses. It's been helpful.

MR. FEATHERSTONE: Mr. Mehta?

(No response.)

MR. FEATHERSTONE: Mr. Greenblatt?

MR. GREENBLATT: Yes. I was wondering if you could discuss, either now or in a post-conference brief, about the issue of production costs and, in particular, electricity costs and how that might be a factor? And I'm looking at both the U.S., the Russians, and the other, you know, major -- major suppliers.

MR. WAITE: Yes, we can address that.

MR. GREENBLATT: You can put that in a -- okay;

fine. Are there any import restrictions on Russian silicon metal from any country outside of the United States?

MR. WAITE: We're not aware of any. And at the moment, there are no restrictions in the United States either.

MR. GREENBLATT: Right. And could you discuss any improvements that were made in recent years, in terms of the quality of the Russian material, if any; in other words, what actually may have transpired in a certain facility, where they might have been able to increase the purity or reduce the impurities of the product?

MR. WAITE: Yes, we can address that, but we'd prefer to do that in our post-conference submission.

MR. GREENBLATT: Sure; sure. I have no further questions.

MR. FEATHERSTONE: Ms. Noreen?

MS. NOREEN: Does anybody know of any other auctions, other than GE?

MR. APPLEBY: Yes. We have participated in one auction in the fourth quarter of 2001 for one of the auto makers, to supply them silicon metal for 2002. There have been other auctions, as well, that we're aware of.

You know, I tried to address that somewhat in my original statement. The process is really not that much different in the way we've been doing business for the past

20 years. It just -- it just adds to the transparency of the commodity. If you are a small buyer in the middle of Alabama, you may not have the inclination to or the ability to contact many different people. But the Internet has done in generally -- in general, has given everybody access to a wider market. So, it just makes it more transparent, because more people are participating.

DR. MAGRATH: I'd like to add to that and it's actually just paraphrasing what Mr. Appleby told us yesterday. The process by phone call and fax is also a "reverse" auction, in this economic -- in this market and economic environment, conducted by people -- buyers at large industrial concerns, of chemical and aluminum concerns, whose business is, like Ms. Haynes, to buy this material and to buy it at the cheapest -- at the cheapest price from the qualified supplier. So, whether it's over the Internet or whether it's done by fax, phone, and it's got to go back and forth a little bit, in terms of negotiation, once again, the picture is the same, a reverse auction and a flood of offerors from numerous competitors, foreign and domestic.

MR. WILNER: May I make one final point? I was impressed during the petitioners' testimony this morning, how they emphasized the auction process and seemed to complain about it, almost as if the auction process had been a cause of their problems. And it seems to me, tying

together with what they said, that if you have the small buyers now in Alabama, through the -- Alabama, not picking on Alabama; it could be a small buyer anywhere. I like Alabama. But if you have a small buyer, who now through the Internet has access to a wider range of alternative supply, it might be a problem, at this time, where there is an enormous amount of alternative supply available. And that's just what's happening, alternative supply from a range of fairly traded imports around the world, and that's becoming -- access to that is becoming available.

MS. NOREEN: I think, Cathy, didn't you ask that they provide the low iron silicon metal? Is there any -- can anybody do that publicly now, rather than -- rather than later -- I mean, any estimate as to how much of the market would be this low iron silicon metal?

MR. APPLEBY: The only -- we don't have any statistics available at this time and then I'm not sure -- I don't know whether we can make those statistics available. We can certainly try. But what I did want to just explain is that one of the largest buyers, primary aluminum buyers of silicon recently tendered out for their requirements. It was about 24 million pounds, of which about 75 percent of it was irons between .18 and .20 maximum. I don't know how indicative that is of the overall metallurgical market. But, clearly, there is a significant portion of the market,

where they require this low iron material.

MS. NOREEN: I had written down in my notes that you had said 14 million. It's 24 million pounds then?

MR. APPLEBY: I'm sorry, 14 -- you're correct, it's 14 million.

MS. NOREEN: Fourteen million. Okay. I think that's all my questions. Thank you.

MR. FISCHER: Fred Fischer, Office of Investigation. I just have one final question. Mr. Waite and Mr. Wilner, to the extent that your clients also produce ferrous silicon or other products in the same plants, using similar equipment, like furnaces, if you could explain any switches either to ferrous silicon or to silicon or other products, in your post-conference briefs. Thank you.

MR. WAITE: Mr. Fischer, it's our understanding that our client, the SUAL producers, do not make ferrous silicon at their plants. We will confirm that and provide that information to you, in our post-conference submission.

MR. WILNER: And I simply have no idea, but I'll find out and I'll --

MR. FISCHER: Thank you.

MR. FEATHERSTONE: Thank you all again for your testimony and answers to the questions. We'll take about a 10-minute break and resume for closing statements. Thank you.

(Whereupon, a brief recess was taken.)

MR. FEATHERSTONE: Can we resume the conference, please? Welcome back, Mr. Kramer. Please proceed.

MR. KRAMER: Thank you. I would like to first point out that in their presentations, the respondents made very important concessions about a number of elements of our case.

As I understood their testimony, they have conceded the injured condition of the domestic industry. Second, they outlined a number of the factors that have contributed to the vulnerability of the industry to injury, by reason of unfairly traded imports. In very graphic truthful testimony, they acknowledged that silicon metal is a commodity product, including -- grade material, and that purchase decisions are based on price.

They've invited the Commission to focus on the on-line auctions, including specifically the GE auction. We embrace that suggestion and we think that that auction unequivocally shows injury by reason of dumped imports from Russia. We think that's reflective in the outcome of the auction, as well as in the bidding.

I'd also like to focus the Commission on the fact that the respondents' testimony really is very misleading, as their auction was to bidders, in one important respect. They have characterized that auction as bidding among

sources of fairly traded material. And they have now publicly acknowledged that bidders included suppliers from the Peoples Republic of China, which is a country subject to order, with 139.49 percent duty deposit rate in effect, which applies to all sources.

There also was the suggestion that there are Brazilian producers no longer subject to the dumping order. There are some producers, who currently have zero or low deposit rates, but -- and others with high rates. The order remains in place as to all Brazilian producers. Whether or not particular bids in a current auction are dumped prices will be determined in administrative reviews. And, of course, another bidder was Russia, which is selling unfairly traded material.

They, at one point in their testimony, pointed to seven sources with lower AUVs. We'll go back and look at exactly what the specifics are of that, but the Commission needs to focus on the question of what product these suppliers are selling. And in the case of the Russian material, a substantial portion of the volume is chemical grade material.

They have argued that there will be no price effect, if the Russian imports were to disappear tomorrow. Independent observers in the trade press would not agree with that portrayal. In addition, the market reaction to

the filing of this case, which immediately led to an increase in price, disproves that suggestion.

Finally, with respect to the suggestion that there are many alternative fairly traded sources that would replace the Russian material, I'd point out that the Russian material has gained volume and market share from both the domestic industry and fairly traded imports, as the Commission would expect to see, when it is dealing with unfairly traded imports that are causing injury.

MR. BUTTON: Ken Button from Economic Consulting Services. The respondents' case is larger that if the duties are imposed, it won't do the domestic industry any good, because prices won't go up. Fortunately, the exhibit suggests otherwise. In a commodity product, you gain market share by having lower price. This shows that during this period we're looking at, it was the Russian material that gained market share. They are the price leaders. Why else would the other volumes decline? It's clear that if you have an order, the reason for the lower prices will be removed.

MR. KRAMER: At this early stage in the proceeding, it is already clear that the domestic silicon metal industry is gravely injured. Material injury is not an issue in this case. The causal connection between the dumped imports from Russia and the material injury to the

domestic industry also is clear. The significant and growing volume and low prices of the Russian imports have depressed U.S. market prices. The dumped imports have gained volume and captured increased market share, while the U.S. producers and other market participants have lost shipments, volume, and market share.

The imports are penetrating all segments of the market, including the chemical producer segment. The commodity nature of silicon metal and the conditions of competition in the silicon metal market require domestic producers to meet the prices of the dumped imports or lose sales. Even when U.S. producers are not competing head to head with the Russian imports for a particular sale, their prices are being driven down by the dumped imports impact on published market prices and price indices used in long-term contracts. On-line auctions by major customers have accelerated the process by which injury is being inflicted. Without question, the Russian import are causing material injury to the domestic industry.

The threat of further material injury is also very real. The Russian producers are highly export oriented and they are focused on the United States market. They possess significant excess production capacity and they have targeted the United States to receive the vast majority of their production destined for export. And as you have heard

in the testimony today, right now, the Russian producers are going all out to get their product into the U.S. market before antidumping duties are imposed.

For all of these reasons, absent relief, the Russian imports will continue to enter the United States in volumes and at prices that will seriously depress and suppress U.S. market prices and will have a devastating impact on the domestic industry. On behalf of the petitioners, we ask the Commission to find, as the record evidence shows, that there is a reasonable indication of material injury and threat of further injury to the U.S. silicon metal industry by reason of the dumped imports from Russia.

MR. FEATHERSTONE: Thank you, Mr. Kramer, Mr. Button. Welcome back, Mr. Stein.

MR. STEIN: Thank you. For the record, Michael Stein. At the outset, I'd like to just note that imports from countries under order are, by law, fairly trade, if -- because duties are imposed, to the extent that they are sold at less than fair value. So, obviously, Russian -- Chinese and Brazilian imports are fairly traded, as are imports from Canada, South Africa, Korea, any number of other places.

The Commission has the information it needs to decide this case now. As we've said earlier, other than the question of what's causing the distress to the U.S.

industry, we don't have any particular quarrel with what the petitioners have been saying. And in a sense, I feel for them. I'm often in their position. The domestic industry lost sales. It doesn't always know to whom it lost the sale. All it knows is, went through it's company; goes to the customer; the customer says, I can buy it cheaper, I'm not going to buy it from you. They see Russian imports increasing. They think, aah, it must be the Russian imports.

Look at the record. In this case, what we have is something unusual. We have something more than anecdote. We have actual information on who offered what, when. And what we can show you is that neither petitioning company, in the case of my client, General Electric, was willing even to participate at the opening price. They didn't need Russian imports. There were numerous fair value, fairly traded imports prepared to under -- to sell to GE for less than the domestic industry was willing even to begin the auction at.

In these circumstances, the law is clear. The fair value imports are an intervening cause of injury, since -- and in those circumstances, a negative determination is not only justified, it is compelled. And I urge the Commission to look at what amounts to a complete record. There is no information -- more information you really need. Make a determination that the Russian imports are not

causing injury, because of -- because they are dwarfed by fair value imports and find what I think this record does compel, which is there is no reasonable indication of injury.

Thank you, very much.

MR. FEATHERSTONE: Thank you, Mr. Stein. Any other closing comments?

(No response.)

MR. FEATHERSTONE: A couple of quick reminders. The deadline for the submission of corrections to the transcript and briefs on this investigation is next Tuesday, April 2. If briefs contain business proprietary information, the non-proprietary version is due the following day. The Commission has scheduled its vote on the investigation for 2:00 p.m. on Thursday, April 18th, and it will report that determination to the Secretary of Commerce, April 22. Commissioner's opinions will be transmitted to Commerce and placed in the public record a week later, on April 29th.

I would like to thank all the parties for accommodating the schedule for this conference a little bit earlier than usual, to avoid the holidays later in this week. We appreciate that. Also, I'm advised that there will be an APO release on the 28th. Anything today? Nothing?

MR. FISCHER: I think today. It may come tomorrow.

MR. FEATHERSTONE: Okay. We don't have anything today, but we'll notify parties if there's anything before that. Thank you, again, for your participation. This conference is adjourned.

(Whereupon, at 12:35 p.m., the preliminary conference was concluded.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: SILICON METAL FROM RUSSIA

INVESTIGATION NO.: 731-TA-991 (Preliminary)

HEARING DATE: March 26, 2002

LOCATION: Washington, DC

NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: March 26, 2002

SIGNED: LaShonne Robinson
Signature of the Contractor or the Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Lorenzo Jones
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

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Signature of Court Reporter